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## **DG MARE**

**STUDY ON THE STATE OF PLAY REGARDING APPLICATION AND  
IMPLEMENTATION OF COUNCIL REGULATION (EC) NO 1005/2008  
OF 29 SEPTEMBER 2008, ESTABLISHING A COMMUNITY SYSTEM  
TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED  
AND UNREGULATED FISHING (IUU REGULATION) SPECIFIC  
CONTRACT NO. 3**

**Lot 2: Retrospective and prospective evaluation on the common  
fisheries policy, excluding its international dimension**


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## **FINAL REPORT**

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the evaluation partnership 



**Lamans s.a.**  
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## **Executive Summary**

1. This study has provided an overview of the current state of play regarding the implementation of the IUU Regulation by all relevant stakeholders. It is acknowledged that the regulation is still a relatively new tool to help fight against IUU fishing and promote the responsible and sustainable exploitation of living marine resources. The outcomes from this study should therefore be viewed as a single snapshot in time, from which Member States and other agencies are continually reviewing and updating their systems to ensure sufficient controls are in place that remain pertinent to the volume of fishery products traded.
2. Information collected to inform the study was obtained from numerous sources, including Member State biennial reports, a series of questionnaires and semi-structured interviews developed in this study and a number of case study visits, selected by DG MARE, to Denmark, France, Germany, the Netherlands, Poland, Spain and the United Kingdom. Questionnaires and case study visits were conducted between July and August 2013.

### **Organisation of Member States to implement IUU Regulation**

3. An overview of the internal organisation within Member States has been given at both administrative and operational levels to better understand how national authorities have arranged their roles and responsibilities before and after the implementation of the IUU Regulation.
4. Twenty-four Member States (92% of the 26 countries that completed questionnaires at the time of the study) have either created or updated existing national laws to implement the IUU Regulation or issued administrative guides for its application, and Member States have organised themselves administratively to address the requirements of the Regulation.
5. Limited information was available to determine how Member States have allocated the roles and responsibilities of national authorities and how these may have changed after the IUU Regulation came into force. Information provided during the case study visits showed that Spain and France in particular have undergone substantial institutional reorganisation by centralising much of the administrative tasks into one location, thereby increasing the level of efficiency and overall effectiveness of cooperation, coordination and communication. Spain has developed a formal collaborative agreement between fisheries and customs authorities in Las Palmas to help increase control over imports, even though customs is not a designated national competent authority.
6. Within Member States, at least 474 people have been allocated new roles and responsibilities with the control of catch certifications (of the 26 Member State reports analysed, all provided a number suggesting an average per Member State of around 18 people).
7. On average, Spain and the UK employed the highest number of personnel to validate and verify catch certificates. However, when adjusted by the number of catch certificates processed over the same period, both Member States were shown to be highly efficient compared to other countries that process relatively few catch certificates each year such as Romania, Hungary and Czech Republic. This indicates that implementation of the IUU Regulation requires a minimum number of personnel at an administrative and operational level, which results in a comparatively low efficiency. Under these circumstances, certain processes and procedures such as the development and maintenance of risk based management systems and control of catch certificates for example, would potentially benefit from an EU-wide IT system.

### **Direct landings of third country fishing vessels at designated ports**

8. Countries reported a total of 4 283 landings and transshipments by third country fishing vessels between 1 January 2010 and 31 December 2011. Denmark reported the highest number (1 409, all of which were landings) followed by France (1 046, all landings), the UK (501, of which 501 were landings) and Spain (426, all landings). The Netherlands, Poland, and Sweden all reported a number of landings of between 200 and 300. Cyprus, Germany, Ireland, Malta, and Portugal all reported landings/transshipments of less than 100. Of the total number of 4 283 landings and transshipments reported, 4 254 (99.3%) were landings, showing the very small number of transshipments.
9. Only three countries (France, Spain and Lithuania) reported that they previously had problems with third country fishing vessels when implementing articles 6 (prior notice) and 7 (authorisation) of the IUU Regulation. For those that had problems, problems stated by France related to fishing

vessels flying Venezuelan flags and difficulties in late receipt of catch certificates for the port of Cayenne in French Guiana. Lithuania did not specify the problem, and Spain highlighted problems in a number of ports, but most notably in Las Palmas and Coruna.

### **Inspection and controls**

10. An overview of the processes and procedures for implementing port inspection and controls have been described for each Member State, with further details available for case study countries. This included information on which national authorities are responsible for controlling prior notices and inspections in designated ports. The results show that prior notification checks for landings of fishery products by third countries at designated ports are performed by a FMC and communicated to the relevant national authority to implement the physical inspections.
11. Fourteen of 26 Member States reported on inspections of fishing vessels that took place between 1 January 2010 and 31 December 2011, suggesting a total of 1 547 inspections (i.e. an average of 110 inspections per Member State) and that 63% of landings by fishing vessels of third countries having access are inspected. Cyprus, Italy and Lithuania all reported some inspections, even though they did not report a number for fishing vessels having access in biennial reports.
12. All landlocked Member States and those that have not established a designated port do not require a risk based management system for port inspections. Of the remaining 19 Member States, eight had not developed a risk based system according to questionnaires responses. This was partly due to the fact that Member States have had no interest from third countries to land or tranship fishery products at this time (e.g. Belgium, Bulgaria and Greece) or that the volume of trade was considered so low that it was more efficient to inspect all vessels rather than develop and maintain a risk management system i.e. 100% port inspections (e.g., Latvia and Cyprus).
13. Poland, Sweden, Ireland and Malta have comparatively high numbers of reported landings from third country fishing vessels but do not utilise a formal risk based assessment for port inspections and controls at designated ports. This is due mainly to the historical development and knowledge of well established trade patterns, such as Norwegian vessels entering Swedish and Irish ports, or bluefin tuna in the case of Malta. Poland has developed considerable knowledge of third country imports through their previous involvement in applying NEAFC and NAFO controls. It is not clear however, how these Member States would change their behaviour if different patterns of landings and transshipments started to occur.
14. Six countries (Cyprus, Denmark, Spain, UK, Ireland and Portugal) reported that they had detected a total of 83 infringements, with Spain accounting for 75 of the total.
15. Customs supervise the import, export and transit of goods including fishery products. As regards fishery products specifically, customs authorities also ensure that the control measure relating to the IUU Regulation, which is contained in the TARIC, is performed prior to releasing the goods for free circulation. This measure stipulates that fishery products must be accompanied by a valid catch certificate. The primary role of customs is the implementation of the EU legislation relating to external trade. The role of customs in relations to the IUU Regulation has been described and demonstrates that they supervise the import, export and transit of fishery products at ports including designated ports and border inspection posts as they do with all other goods. Customs also ensure that the control measures relating to the IUU Regulation which are contained in the TARIC are performed prior to releasing the goods.
16. Under Council Directives 91/496/EEC and 97/78/EC, all consignments of live animals and products of animal origin introduced into the territory of the EU must be presented at an approved border inspection post to undergo mandatory veterinary checks after which a CVED is issued. These health and veterinary controls also provide an opportunity for national authorities to control consignments of fishery products from third countries under the IUU Regulation. Consignments of fishery products from third countries entering the territory of the EU other than fishing vessels require the same checks under the IUU Regulation pursuant to the procedures laid out in articles 14, and 17. In addition, TARIC control measures are also in place that stipulates that a CVED must be presented to customs authorities before a customs procedure can be assigned.
17. From the limited information available on the number of inspections undertaken by Member States at border inspection posts, the results showed that Cyprus, Ireland, Netherlands and

Poland have undertaken a modest number of inspections, with Netherlands detecting the highest number of infringements.

### **Catch certificate scheme for importation**

18. The total number of catch certificates presented to Member States for verification on import between 1 January 2010 and 31 December 2011 was estimated from biennial reports as 553 559. Responses from Member State questionnaire indicate this figure could be much higher and can place a large administrative burden on Member States competent authorities.
19. Not all Member States provided a breakdown of the data into 2010 and 2011, but for those that did, data suggest a slight increase (15%) in 2011 compared to 2010. On average, 21 292 catch certificates were verified per Member State, but this average hides a wide range in catch certificates presented to different Member States, including 145 000 to Germany, 105 762 to Spain, 119 221 to Italy, and around 70 000 to the UK representing 72% of the total.
20. Of the total number of catch certificates verified, 2 573 were RFMO catch certificates that accompanied imports over the period from 1 January 2010 until 31 December 2011 (1 181 in 2010 and 1 392 in 2011). Of these, 1 281 were presented to Spain (50% of the total), 646 to Romania (25%), 394 to France, 175 to the Netherlands, 105 to Malta, and the remainder (35, or just 1.4% of the total) to Belgium, Bulgaria, Estonia, UK, Lithuania and Portugal.
21. On average, the most common RFMO catch certificate used for import into EU between 2010 and 2011 has been for bluefin tuna imported through Spain (578), Romania (323) and Malta (53). In addition, an average of 230 RFMO catch certificates were used for Patagonian toothfish products (CCAMLR catch certificates for *Dissostichus* spp.) between 2010 and 2011 in France (197), Spain (31) and the Netherlands (2).
22. Member State biennial reports suggest that 31 982 processing statements accompanied imports under article 14(2) from 1 January 2010 until 31 December 2011. Not all countries broke down data into the two years, but for those that did almost all showed a large increase over the two years with a rise from 3 249 in 2010 to 16 717 in 2011. To date, unlike re-export catch certificates, Member States were unable to provide a breakdown by third country for each processing statement. Concerns were expressed by case study countries that catch certificates can be duplicated during processing of fishery products in third countries, which is beyond their control.
23. Knowledge of the processing methodologies, conversion factors and the implications for weights entered into control documents are well established in Poland for example, due to the NAFO and NEAFC requirements. This information however, may be shared on an EU-wide basis from various processing plants to ensure products are not misreported in processing statements and total weight calculations on catch certificates. Stakeholders further recognised that the focus of the IUU Regulation should be at the beginning of the supply chain not at the end, just before it enters the EU. It was understood that this would require increased governance in developing third countries of their fleets and operators.

### **Catch certificate scheme for export and re-export**

24. Eighteen countries reported that they have established a procedure for validation of catch certificates for exportation of catches from own vessels.
25. Information provided from Member States questionnaires in this study showed that Cyprus, Greece, Romania, Slovenia, Finland, and Malta do not have systems in place at this time for validating catch certificates. This is primarily due to the fact that these countries have negligible requests to validate catch certificates that warrants time and expense in developing a system.
26. Member States that have a procedure in place for validating catch certificates, a total of 49 951 catch certificates were validated from 1 January 2010 until 31 December 2011 (31 764 in 2010 and 18 187 catch certificates in 2011). The average number of catch certificates validated per year per Member State over the two year period was thus 1 388, but figures vary between countries, and the countries validating the greatest number over the two year period were Germany (16 099), the Netherlands (15 319), Spain (5 674) and Italy (5 263).
27. Seven Member States (Bulgaria, Germany, Spain, Finland, Italy, the UK, and the Netherlands) confirmed that they monitor that the catches for which they validated catch certificates actually leave the EU, and five countries reported that they have previously refused to validate a catch

certificates (Denmark, Spain, Greece, Ireland and the Netherlands). It should also be noted that Italy, Malta and Greece export fishery products to third countries, but this is through the ICCAT catch documentation scheme for bluefin tuna, and is not reported in the above statistics

28. A total of 9 270 re-export certificates were validated by Member State authorities from 1 January 2010 until 31 December 2011. Not all countries broke data down into the two years, but those that did show increases in 2011 over 2010. Eight Member States (62% of the 13 saying they had validated re-export certificates) reported that they monitor if the catches for which they validated a re-export certificate actually leave the EU (Ireland, the UK, Spain, Denmark and Germany being the countries reporting that they do not).
29. An indication of the distribution of destination countries for re-export products showed Russia and Norway to be the main destination country for products originally imported in Germany, Denmark and the Netherlands. Spain on the other appears to be a central distribution hub to a number of destination countries.
30. Information from Member States biennial reports indicates that a total of 353 requests for verification of catch certificates had been sent although 9 countries indicated 'all' requests had been responded to. Information from Member States questionnaires suggests this has increased to 521 between 2010 and 2012. In addition, those requests to third countries were generally poor in terms of quality of the information provided but also the response time (greater than 2 weeks).

### **IT Systems**

31. A range of IT tools have been developed by Member States to assist them implement the IUU Regulation that would help lead to greater efficiencies and increased effectiveness, including those to improve inter-agency cooperation and communication, catch certificate management and process and risk based management systems for document controls and physical checking. Use of IT tools to generate the same outcome across all Member States can lead to a uniform approach to implementing key elements in the regulation. Moreover, the extent and complexity of the IT systems developed by Member States appears to be commensurate with the volume of fishery products traded.
32. IT tools to aid national inter-agency communication have been described by various Member States. These are mainly mediated through shared databases, such as LZIKIS (Latvia) or the Integrated Fisheries Data Information System (Lithuania). The Spanish Fisheries Authority (MAGRAMA) has developed a specific IT tool (SIGCPI; Integrated System for the Management and Control of Illegal Fishing) to communicate automatically with their customs authority on the outcome of document checks and catch certificate verifications, for example. This system also allows economic operators to monitor the status of their consignment of fishery products. A similar national system is in place in Denmark for managing control documents (VGC).
33. Some Member States have yet to develop sophisticated IT tools to support implementation of the IUU Regulation (e.g., France). This is due primarily to determine whether an integrated regional approach will be developed with the Commission, such as the Single Window (SW) concept, that combines information from multiple sources during import and combining this with the requirements of EC legislation (DG MARE, DG TAXUD and DG SANCO). Certain data types remain confidential (e.g. national customs data), which will require different levels of access and control.
34. IT tools have been developed for intelligence gathering purposes to assist risk based management systems to track individual consignments of fishery products, in addition to tracking IUU vessel movements. For example, Spain has employed a full-time position to collect intelligence data to help identify changes in the behaviour of trade patterns and trade flows that might indicate sources of IUU fishery products. This highly sophisticated intelligence gathering has shown to be effective, but has a low rate of efficiency without support from other Member States.
35. A national database has been created by MAGRAMA (Spanish fisheries authority) to keep a record of specific vessel characteristics, such a unique vessel identifier (e.g., IMO number) and hold volume etc to identify vessels that can be used for risk based management. This investment in collecting and maintaining information is not shared with other Member States.

36. A number of third countries have developed online verification systems that provide an effective and efficient mechanism for Member States competent authorities to check and verify catch certificates originating from third countries (e.g., Norway and Canada).

### **Sanction and accompanying sanctions**

37. Denmark, Spain, Netherlands, Poland and the UK have undertaken the most inspections in line with the total number of third country landings during the same period (during 2010 and 2012). In general, the results show that relatively few infringements were reported given the overall level of inspections. Without further specific information occurring within each Member State, it is difficult to understand the level of risk associated with third country landings to determine whether the level of inspections is appropriate for the level of risk.
38. The highest number of refusals of import was reported by the UK, Spain, France and Poland. The main reasons for their refusal were no catch certificate (UK) invalidated catch certificates (Spain, Poland), incorrect species identified (France, UK) and non-compliance with article 18.2.
39. Article 44 sets out the provisions available to Member States in response to serious infringements perpetrated by nationals. Feedback from Member States indicates that repeated infringements were most likely to be punished with various financial penalties. In the case of repeated offences fines, typically ten times the product value, were applied. Other specific fines mentioned were for six times value of the product. Other countries apply a points system for serious infringements e.g. UK and Bulgaria.
40. Seven Member States (Spain, France, the UK, Ireland, Lithuania, Latvia and Portugal) reported that they had endeavoured to obtain information on arrangements between nationals and third countries allowing reflagging of their vessels.
41. Stakeholders indicated that increased transparency should be given to the level of sanctions imposed by both Member States and third countries to promote a uniform implementation of the IUU Regulation.

### **Cooperation, communication and coordination**

42. Within each Member State, a single point of contact with the Commission and other Member States has been established through the SLO. Contact information for each Member State SLO is not widely available from the Commission at this time.
43. The public EU alert system is not operational at this time.
44. The total number of mutual assistance requests between 2010 and 2012, showed France had made the highest number to the Commission (62), whereas Denmark (approx. 100), Finland (approx. 100) and Greece (51) have made a significant number of requests to third countries, whereas Finland (35), Spain (11), Estonia (10) and United Kingdom (6) had made the most requests to other Member States.
45. Information on the response time of mutual requests showed that the Commission had responded to Member States poorly at times, exceeding more than 2 weeks. These findings were also supported by Member State authorities during case study interviews. Member States had usually responded to each other within a week, usually 1-2 days. Further information on the type of request is required to provide a better understanding of these trends.

### **Training**

46. The EFCA provides assistance to the Commission in their third country evaluations. In line with its mandate and objectives, EFCA provides training and workshops for officials of all Member States involved in the practical implementation of the IUU Regulation. To date, these fall within the following three main pillars:
- a. IUU workshops and seminars conducted for all Member States at EFCA premises in Vigo.
  - b. Support IUU trainings and meetings organised by Member States at a national level.
  - c. Regional EFCA IUU workshops for smaller groups of Member States.
47. Through these EFCA training events, the principal objectives are to:

- a. Provide guidance on technical issues with regard to control, inspection and verification of IUU catch certificates and thus to support a harmonized and uniform implementation of the IUU Regulation;
  - b. Provide a platform for the exchange of experiences and the development of best practices;
  - c. Establish a network of administrative cooperation and exchange of information among the Member States;
48. Officials from all Member States had attended workshops conducted by the EFCA, and that they were expected to disseminate the information to the relevant national authorities. This occurred through seminars, workshops, internal communications and meetings. In addition to these national training programmes, information has been included within one or more guidance manuals or Standard Operating Procedures (SOPs) to help ensure the sustainability of the information given changes in personnel.
49. Regional training exercises have not been restricted to national fisheries authorities, and officials from the Dutch customs authority indicated they had also attended training workshops run by the EFCA, which reflects their role played in implementing the regulation.

### **Approved Economic Operators**

50. Evidence from provided from biennial reports suggest a total of 13 requests have been made to authorise APEO status (one request each to the Netherlands and Ireland, two each to Austria, France and the UK), and five to Germany), with seven (54%) of these being authorised (one each by Austria, the Netherlands and Ireland, and two each by France and Germany).
51. Based on the perceptions of Member States national authorities and a number of non-governmental organisations, it would appear that the current small number of APEOs (three) is not due to a lack of awareness of the APEO scheme, but to a range of other issues, including the lack of perceived benefits given the total volume of other import control documents required by operators.
52. Both the UK and Denmark have developed awareness programmes for operators to keep apprised of IUU requirements and develops and have helped to increase efficiency and minimise the number of catch certificate refusals. The onus is put on operators to own and manage their risk effectively.
53. Development of a global import IT system, such as that proposed under the 'Single Window' concept for example, was proposed by French authorities to simplify import processes and procedures such that it becomes more efficient and attractive for operators to acquire APEO status.

### **Trade patterns and markets**

54. An analysis was undertaken to determine whether the implementation of IUU Regulation has had any impact on trade of fishery products between EU operators and operators in third countries.
55. The analysis focussed on marine fishery products included under Chapter 03 and Tariff headings 1604 ad 1605 of the Combined Nomenclature (CN), thus excluding fish meal and other products excluded from the IUU Regulation. A range of information sources were used in the analysis, including trade statistics (EuroStat, COMEXT) and extracts from TRACES database, provided by DG SANCO.
56. The analysis was specifically designed to report trends in the volume of several species codes identified in the CN. With the information used (analysis of trade statistics, Member States analysis and discussions with EU traders), the results showed that no impact on trade in relation with the IUU Regulation can be detected.
57. Certain Member States may have experienced changes in their trade patterns and/or markets (e.g. Spain), that can also be observed in data collected from catch certificates, but this may not reflect increased controls over IUU fishery products. National authorities in Spain suggested that the reported decline in the volume of trade in fishery products in Las Palmas was most likely due to economic operators moving elsewhere to reduce time of import, rather than to avoid detection of IUU products. This highlights the importance of creating efficient and effective systems (including IT tools) to support legitimate trade.



58. To detect abnormal trends between the period both before and after the IUU Regulation came into force requires which are related to IUU fishing requires considerable knowledge and additional sources of means and intelligence not available within this study. Indeed, Spanish authorities have devoted one full-time personnel to this task.

### **Awareness**

59. In general, Member States have gained a high level of awareness of the requirements of the IUU Regulation. This was demonstrated by the development of national guidelines and instruction manuals (i.e. SOPs) that are kept updated to ensure the sustainability of the processes and procedures developed by various national authorities to implement the regulation. Specific guidelines were observed for Germany, Denmark, the Netherlands and the UK.
60. The perception from a range of environmental non-governmental organisations indicates that the IUU Regulation has already started to change the behaviour and practices of IUU operators. This was most notable from the reduction in the number of reefers attempting to import fishery products into Las Palmas, Spain. Given that the regulation has been in force for only a few years, this is viewed as a significant result.
61. Member States requested greater transparency of the outcomes from DG MARE audits and inspections to other Member States and evaluations to third countries to help update and maintain risk based management systems in order to become more efficient and effective in their controls. Further to this, stakeholders indicated that greater transparency on the number of inspections, investigations and rejections on imports from each Member State are deemed necessary before firm conclusions can be drawn over the level of success.
62. To date, information available from a select group of third countries shows that considerable knowledge and awareness of the IUU Regulation does exist. For example, the United States has developed guidelines and forms available online to download for U.S. economic operators looking to export fishery products into Europe.
63. A range of stakeholders indicated a lack of information on the level of sanctions imposed by other Member States and third countries was deemed to dilute the effectiveness of the IUU Regulation.

### **Good and best practice**

64. The study has been used to highlight a range of good and best practices performed by Member States to implement the IUU Regulation.



## Acronyms

<b>AEO</b>	Authorised Economic Operator
<b>AIS</b>	Automatic Identification System
<b>APEO</b>	Approved Economic Operator
<b>BCP</b>	Bureau du Contrôle des Pêches
<b>BIP</b>	Border Inspection Post
<b>BLE</b>	Bundesanstalt für Landwirtschaft und Ernährung (German Fisheries National Authority)
<b>CAPEX</b>	Capital Expenditure
<b>CCAMLR</b>	Commission for the Conservation of Antarctic Marine Living Resources
<b>CC</b>	Catch Certificate
<b>CCS</b>	Catch Certificate Scheme
<b>CECAF</b>	Eastern Central Atlantic Fisheries
<b>CFP</b>	Common Fisheries Policy
<b>CITES</b>	Convention on International trade of Endangered Species
<b>CMS</b>	Communication Management Strategy
<b>CN</b>	Combined Nomenclature
<b>COFI</b>	FAO Committee on Fisheries
<b>CRMS</b>	Customs Risk Management System
<b>CROC</b>	Cellule Régionale d'Orientation des Contrôles (France)
<b>CVED</b>	Common Veterinary Entry Document
<b>DG DEVCO</b>	Directorate-General for Development and Cooperation
<b>DG MARE</b>	Directorate-General for Maritime Affairs and Fisheries
<b>DG SANCO</b>	Directorate-General for Health and Consumers
<b>DG TAXUD</b>	Directorate-General Taxation and Customs Union
<b>DG TRADE</b>	Direction General for Trade
<b>DGDDI</b>	Direction Générale des Douanes et Droits Indirects (France)
<b>DIRM</b>	Directions Interrégionales de la Mer
<b>DPMA</b>	Direction des Pêches Maritimes et de l'Aquaculture (France)
<b>DVFA</b>	Danish Veterinary and Food Administration
<b>EAS</b>	European Alert System
<b>EC</b>	European Commission
<b>EEZ</b>	Exclusive Economic Zone
<b>EFCA</b>	European Fisheries Control Agency
<b>EJF</b>	Environmental Justice Foundation
<b>ENSAM</b>	l'Ecole Nationale de la Sécurité et d'Administration (France)
<b>EP</b>	European Parliament
<b>EU</b>	European Union
<b>FAO</b>	Food and Agriculture Organisation of the United Nations
<b>FMC</b>	Fisheries Monitoring Centres
<b>FPA's</b>	Fisheries Partnership Agreements
<b>FVO</b>	Food and Veterinary Office
<b>HACCP</b>	Hazard Analysis and Critical Control Point
<b>HS</b>	Harmonised Commodity Description and Coding System
<b>ICCAT</b>	International Commission for the Conservation of Atlantic Tunas
<b>ICS</b>	Import Control System
<b>IOTC</b>	Indian Ocean Tuna Commission
<b>IPOA-IUU</b>	International plan of action to prevent, deter and eliminate illegal, unreported and regulated fishing
<b>ISPS</b>	International Ship and Port Facility Security Code
<b>ITTAC</b>	International Commission for the Conservation of Atlantic Tunas
<b>IUU</b>	Illegal, Unreported and Unregulated fishing
<b>IVO</b>	Import Veterinair Online (Netherlands)
<b>MCS</b>	Monitoring, Control & Surveillance
<b>MFN</b>	Most Favoured Nation
<b>MMO</b>	Marine Management Organisation
<b>NAFO</b>	Northwest Atlantic Fisheries Organisation
<b>NCA</b>	National Competent Authority

<b>NEAFC</b>	North East Atlantic Fisheries Commission
<b>NEAFC</b>	North-east Atlantic Fisheries Commission
<b>NGO</b>	Non-Governmental Organisation
<b>NPOA</b>	National Plan of Action
<b>NVWA</b>	Food and Consumer Products Safety Authority (Netherlands)
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OPEX</b>	Operating Expenditure
<b>PCD</b>	Policy Coherence for Development
<b>PCS</b>	Polish Customs Service
<b>PIRCP</b>	Plan Inter-Régional de Contrôle des Pêches (France)
<b>PNCP</b>	Plan National de Contrôle des Pêches (France)
<b>PSC</b>	Port State Control
<b>PSM</b>	Port State Measures
<b>QMS</b>	Quality Management System
<b>RASFF</b>	Rapid Alert System for Food and Feed
<b>RFMOs</b>	Regional Fisheries Management Organisations
<b>RIF</b>	Risk Information Form
<b>RMS</b>	Risk Management System
<b>RSFI</b>	Regional Sea Fisheries Inspectorates
<b>SKAT</b>	Danish Customs and Tax Administration
<b>SLO</b>	Single Liaison Office
<b>SMS</b>	Specimen Management System
<b>SOP</b>	Standard Operating Procedures
<b>TARIC</b>	Integrated Tariff of the European Communities
<b>TRACES</b>	Trade Control and Expert System
<b>UN</b>	United Nations
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>VEA</b>	Behörde für Gesundheit und Verbraucherschutz (Germany)
<b>VGC</b>	Veterinair Grens Controle systeem (Netherlands)
<b>VMS</b>	Vessel Monitoring System
<b>WCO</b>	World Customs Organisation
<b>WCPFC</b>	Western and Central Pacific Fisheries Commission
<b>WTO</b>	World Trade Organization
<b>WWF</b>	World Wildlife Fund

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# 1 Introduction

As noted by the European Commission in its 2005 Communication on the topic<sup>1</sup>, Illegal, Unreported and Unregulated (IUU) fishing is a major threat worldwide to the sustainable management of marine resources. A global problem, it inflicts disastrous damage on marine biodiversity, causes severe socio-economic harm, particularly to coastal communities in developing countries, and undermines attempts to improve the governance regime for the common resources of the oceans.

The EU has long been active in the fight against IUU fishing: the EU Action Plan for the eradication of IUU fishing was adopted back in 2002. The adoption of the IUU Regulation<sup>2</sup> on 29 September 2008 can therefore be seen as an important step in a longer process of engagement at the European level with this important issue.

Comprising 57 articles set out in 12 Chapters the IUU Regulation established an EU 'system to prevent, deter and eliminate IUU fishing'. While the catch certification scheme based on traceability for the import and export of fishery products is probably the most high-profile element of the system it is but one of a number of regulatory approaches provided for in the IUU Regulation which also:

- creates a port state control mechanism regarding the use by third country fishing vessels of Member State ports and landing sites;
- provides for the establishment of a 'EU Alert System';
- requires the identification of fishing vessels engaged in IUU fishing and the establishment of an EU IUU vessel list;
- provides for the identification and eventual listing of non-cooperating third countries;
- sets out measures to be taken in respect of fishing vessels and states involved in IUU fishing;
- contains provisions regarding nationals of Member States supporting or engaged in IUU fishing;
- requires the undertaking of immediate enforcement measures, and accompanying sanctions relating to serious infringements relating to IUU fishing committed in areas subject to Member State jurisdiction, by EU fishing vessels and on the high seas;
- provides for the implementation of provisions agreed within the auspices of certain regional fisheries management organisations (RFMOs) relating to the sighting and investigation of fishing vessels;
- contains provisions on mutual assistance.

While the scope of the system applies to all IUU fishing and associated activities in general (in other words it applies within the territory of the Member States and in EU waters<sup>3</sup> as well as on the high seas and in the waters under the jurisdiction of third countries) the primary focus of the IUU Regulation in terms of fishing activities is on IUU fishing on the high seas and in the waters of third countries. Measures against IUU fishing in 'EU waters', to use the term in the revised Basic Regulation,<sup>4</sup> are primarily addressed in the Control Regulation<sup>5</sup> the revision of which was completed

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<sup>1</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 17 October 2007 on a new strategy for the Community to prevent, deter and eliminate Illegal, Unreported and Unregulated fishing [COM(2007) 601 final - not published in the Official Journal].

<sup>2</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

<sup>3</sup> Which term is not defined in the IUU Regulation but is well established under EU law to mean the waters included in the territorial seas and exclusive economic zone (or equivalent) of coastal Member States.

<sup>4</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354 28.12.2013, p 22).

<sup>5</sup> Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for

shortly after the adoption of the IUU Regulation.

The IUU Regulation, which is implemented through two Commission Regulations (Commission Regulation (EC) No 1010/2009<sup>6</sup> and Commission Regulation (EU) No 86/2010<sup>7</sup>), entered into force on 29 October 2008 (the date of its publication in the *Official Journal of the European Union*) and applied as of 1 January 2010. Now that certain initial experience has been gained, the purpose of this Study is to set out an overview of the state of play of the practical implementation/application of the IUU Regulation by the relevant stakeholders.

This study has been prepared on the basis of desk-based analysis of various documents, including a review of Member States reports required under the IUU Regulation, questionnaires sent to all Member States, field visits to selected Member States and interviews with other stakeholders including Commission services and agencies and several non-government organisations. No visits have been undertaken to third countries. A methodology is attached as Appendix 1.

This report is set out in ten parts including this introduction. Part Two contains a general analysis of the implementation of the IUU Regulation on IUU fishing and its contribution to sustainable aquatic resources management. Part Three contains a description of the practical implementation of the IUU Regulation by various stakeholders including the Member States and European Commission services.

The processes and procedures that stakeholders have developed to implement and apply the IUU Regulation are the subject of Part Four while Part Five contains an examination of implementation and use of information and cooperation mechanisms

Part Six contains an examination of the impact of the IUU Regulation on trade and trade patterns while the coherence of the IUU Regulation with other EU instruments and structures is considered in Part Seven

Spill over effects are the subject of Part Eight while in Part Nine best practices are described.

Finally a series of conclusions are drawn in Part Ten.

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ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

<sup>6</sup> Commission Regulation (EC) No 1010/2009 of 22 October 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (OJ L 280, 27.10.2009, p. 5).

<sup>7</sup> Commission Regulation (EU) No 86/2010 of 29 January 2010 amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products and amending Commission Regulation (EC) No 1010/2009 as regards exchange of information on inspections of third country vessels and administrative arrangements on catch certificates (OJ L 26, 30.1.2010, p. 1).

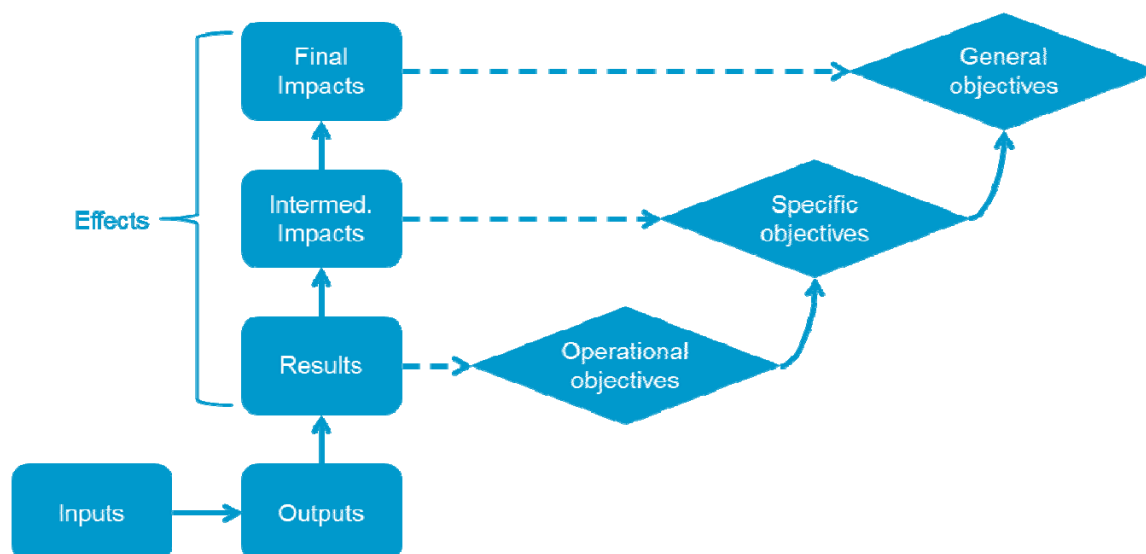
## 2 Implementation of the IUU Regulation and its contribution to sustainable aquatic resources management

This study is not an evaluation of the IUU Regulation but rather a study on the current state of play regarding its application and implementation. However, development of the intervention logic is an important requisite to better understand the links between the objectives of the IUU Regulation and the results through implementation, as well as the impact on IUU fishing in order to identify how successful the intervention was at achieving its objectives.

An intervention logic is a model that graphically illustrates the components of an evaluand – typically of a programme or project – in order to clarify its causal chain, i.e. how certain inputs and activities are expected to lead to outputs, results and impacts (which are linked to objectives at different levels). In this way an intervention logic can summarise a potentially complex theory using basic categories.

Developing an intervention logic model for legislation requires a somewhat different approach to that typically taken when analysing a spending programme or project, as the ‘cause-effect’ logic cannot be conceptualised in the same way. Among other things, with legislative measures, in the first instance there are typically no specific resources (financial, human or other) that are invested, nor are there specific activities that are undertaken to generate outputs.

On the other hand, especially in the case of EU legislation, there are additional layers of complexity related to its transposition, application and the actions taken by actors across the EU which may differ widely between Member States and jurisdictions.<sup>8</sup> However as the IUU Regulation is a regulation in accordance with the Treaties it is of general application, binding in its entirety and directly applicable in all Member States, thus eliminating one possible source of complexity. Therefore, the intervention logic is able to use the standard approach as shown in the diagram below, although certain concepts need to be interpreted differently (especially at the bottom of the impact chain), as explained below.



**Figure 1: Framework for developing hierarchy of objectives and associated indicators within intervention logic**

The intervention logic for the IUU Regulation as shown in Figure 1 above is relatively simple and linear. This reflects the fact that the main provisions of the IUU Regulation entail the development and implementation of specific measures, such as the EU-wide catch certification scheme, which have clear intended results (even if their application and enforcement may be far from simple, described in

<sup>8</sup> For more information on the use of intervention logic models for evaluating EU legislation, see: T. Fitzpatrick: Evaluating legislation: An alternative approach for evaluating EU Internal Market and Services law, in: Evaluation, vol. 18, no. 4, Oct. 2012.

the external factors part at the bottom of Figure 2). Thus, the main components of the intervention logic (or steps in the impact chain) can be summarised as follows:

- **Inputs and outputs:** EU legislation can be considered as both an input (a resource that the EU puts into the mix) and as an output (an action that requires something to happen). We have resolved this potential overlap / confusion by placing the actual pieces of legislation under inputs, and the main applicable rules and mechanisms stemming from them under outputs. This allows us to represent both relevant sets of information in a useful and coherent way. Thus the inputs box lists the IUU Regulation in addition to secondary and implementing legislation, while the outputs box focuses on the specific measures with which the Regulation intends to curtail IUU fishing. Crucial to note is that the IUU Regulation seeks to enhance the control and enforcement of existing rules on IUU fishing rather than instituting new ones.
- **Results:** This level depicts the immediate reactions to the legislation following the development and implementation of the measures set out in the legislation. In this case, each measure should result in a discrete result related to reducing IUU fishing.
- **Intermediate impacts:** This level relates to the specific objectives of the measures. These objectives are reflected in various documents (the legislation itself, Commission documents such as the Handbook on the practical application of the Regulation<sup>9</sup>), and the wording in the boxes represents a summary of the key objectives enshrined in different sources. They demonstrate that the key objective of the Regulation entails reducing IUU fishing, and that it should also lead to better fisheries management overall and improved economic prospects for honest fishermen who follow existing rules.
- **Final impacts:** The final impact should reflect the global policy objectives. In this case, the IUU Regulation should contribute to the overall objectives of the CFP. The wording used in the intervention logic diagram is taken from the 2002 Basic Regulation,<sup>10</sup> which emphasises the three dimensions of sustainable fishing (environmental, economic and social).

As noted above, the inherent logic of the IUU Regulation and the measures it puts in place are quite linear. However, its implementation is partly dependent on a series of external factors, which do not form part of the regime to be evaluated as such, but have the potential to influence significantly (positively or negatively) its effectiveness and/or efficiency (and hence represent risks and/or opportunities). The most important of these factors are shown at the bottom of the intervention logic diagram (Figure 2), between the main steps in the causal chain at which they may exert their influence. As shown in Figure 2:

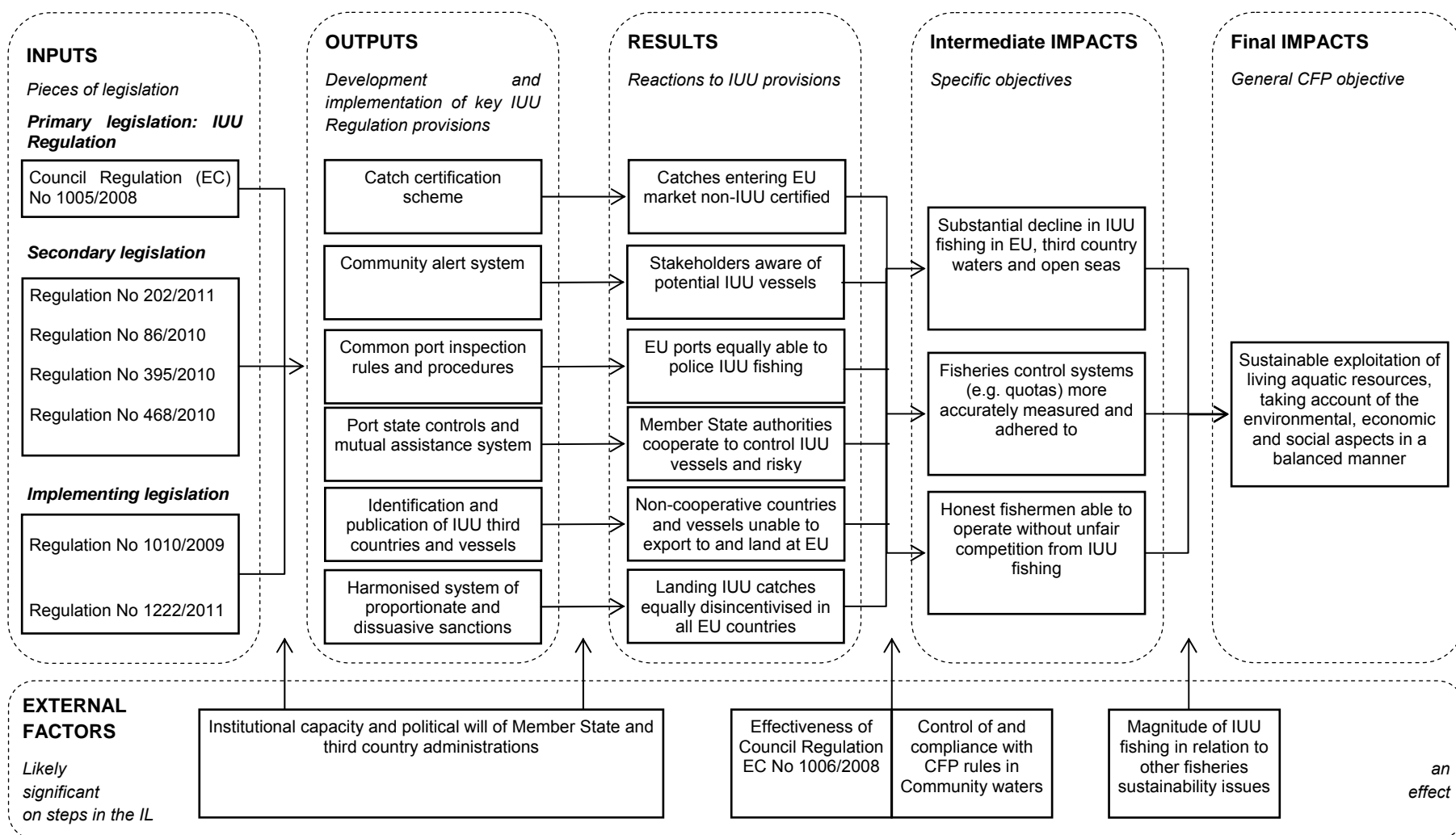
- The ability of the Member States and third countries, many of which face serious resource constraints, to implement the IUU provisions effectively depends in large part in their institutional and administrative capacity. In other words, if the provisions are too onerous, then their application risks being uneven or incomplete.
- The IUU Regulation forms only one part of a three-pillared system to control fisheries. If the provisions and implementation of the other two, which include such key issues as effort planning and the rules and regulations for fishing in EU waters, are ineffective, the impact of the IUU provisions could be minimal.
- Finally, provisions to curtail IUU fishing assume that it is potentially a large problem to be addressed. If the magnitude of this problem has been underestimated, even a complete cessation of IUU fishing would not much change the status quo or lead to the more sustainable exploitation of living aquatic resources specified as the general objective.

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<sup>9</sup> Handbook on the practical application of Council Regulation (EC) No. 1005/2008:

[http://ec.europa.eu/fisheries/cfp/illegal\\_fishing/info/handbook\\_original\\_en.pdf](http://ec.europa.eu/fisheries/cfp/illegal_fishing/info/handbook_original_en.pdf).

<sup>10</sup> Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.



**Figure 2: Intervention Logic – IUU Regulation**

## 3 Practical implementation of the IUU Regulation

### 3.1 Member States

#### 3.1.1 Legal and administrative arrangements

The IUU Regulation requires Member States to undertake a number of legal and administrative measures with regards to its implementation. This section examines in more detail how the Member States have organised national authorities to implement various measures in the IUU Regulation including as the inspection of third country vessels in Member States' ports, the inspection of imports at Border Inspection Posts, the EU catch certificate scheme foreseen under the IUU Regulation, sanctioning and mutual assistance.

At the outset it is important to note, with regards to the import of fishery products, that the implementation of the IUU Regulation has taken place against the background of existing legal and administrative requirements regarding the import of fisheries products in the context of the EU Customs Code<sup>11</sup> and veterinary procedures to be followed in order to import into or transit through the EU commercial consignments of live animals and products of animal origin pursuant to Council Directives 91/496/EEC<sup>12</sup> and 97/78/EC<sup>13</sup>.

In practice, customs supervise the import, export and transit of goods including fishery products. With regards fishery products specifically, customs authorities also ensure that the control measure relating to the IUU Regulation, which is contained in the TARIC<sup>14</sup>, is performed prior to releasing the goods for free circulation. This measure stipulates that fishery products must be accompanied by a valid catch certificate.

In addition to customs controls set out under these Directives, all consignments of live animals and products of animal origin introduced into the territory of the EU must be presented at an approved border inspection post (BIP)<sup>15</sup> to undergo mandatory veterinary checks. Furthermore, TARIC control measures are also in place that stipulates that a Common Veterinary Entry Document (CVED) must accompany all such importations. These health and veterinary controls also provide an opportunity for national authorities to control consignments of fishery products from third countries under the IUU Regulation.

Consignments of fishery products from third countries entering the territory of the EU other than by fishing vessels require the same checks under the IUU Regulation pursuant to the procedures laid out in articles 14, and 17. Documented evidence (article 14(1)(b)), processing statements (article 14(2)) if the products had been processed in a third country other than the flag State; original and/or copies of catch certificates (article 14(2)(c)) must accompany the products and be checked by the nominated authority for consistency following the requirements of article 17 of the IUU Regulation (see section 3.1.4 for catch certificate verification).

Although neither customs nor health and veterinary authorities are primarily responsible for implementing the IUU Regulation, given their existing roles Member States may assign them additional roles and responsibilities to control consignments of fishery products entering and leaving the territory of the EU under the Regulation.

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<sup>11</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p 1).

<sup>12</sup> Council Directive of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC (91/496/EEC) (OJ L 268, 24.9.1991, p 56).

<sup>13</sup> Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries (OJ L 24, 30.01.1998, p 9).

<sup>14</sup> TARIC, the online Community Tariff, is a multilingual database in which are integrated all measures relating to EU customs tariff, commercial and agricultural legislation.

<sup>15</sup> Council Decision 2009/821/EC of 28 September 2009 drawing up a list of approved border inspection posts, laying down the rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in TRACES (OJ L 296, 12.11.2009, p 1).

Further details of the structural coherence between these various instruments are given in section 7.2. The administrative organisation within Member States to implement the IUU Regulation between national authorities is examined in the following sections.

### **3.1.1.1 Legislative framework**

Information obtained from Member State biennial reports and Member State questionnaires in this study indicate that twenty-four Member States (92% of the 26 countries<sup>16</sup>) have made provisions for the enforcement of IUU Regulation and/or issued administrative guidelines for its application. Of those remaining countries that had not, Bulgaria indicated it was in the process of amending national legislation, whereas Belgium provided no additional information at the time of this study.

### **3.1.1.2 Administrative organisation**

The administrative organisation within Member States to implement the IUU Regulation requires an intervention at a policy, administrative and an operational level.

Prior to implementation of the IUU Regulation, Member States were required to undertake a number of policy review processes to identify which national authorities should be allocated additional roles and responsibilities for implementation beyond those currently required by their respective sectors<sup>17</sup>. In general this was followed by the need to reorganise and coordinate existing enforcement resources across the national authorities and where necessary accrue new ones to meet the requirements of the regulation.

At an administrative level, pursuant to article 39(1) of Commission Regulation 1010/2009, each Member State was required to designate a single liaison office (SLO) as the single authority for communication with the Commission and other Member States to implement the IUU Regulation. Furthermore, article 39(2) of Commission Regulation 1010/2009 states that this information must be communicated to the European Commission and other Member States and kept up to date. The Commission must publish and update the list of single liaison offices in the *Official Journal of the European Union* (article 39(3)).

In addition to the SLO, one or more national competent authority (NCA) may be designated specific roles and responsibilities to implement the IUU Regulation at an operational level. For example, in accordance to articles 15(2), 17(8) and 21(3) of the IUU Regulation, Member States have notified the Commission of their competent authorities to validate, check and verify catch certificates. These were originally published online in 2009<sup>18</sup> and amended in November 2010<sup>19</sup>.

As highlighted earlier, it is recognised that multiple national authorities may be employed at an operational level to support implementation the IUU Regulation other than validating, checking and verifying catch certificates (e.g. Prior Notice, development and maintenance of Risk Management System and Refusal of Imports etc). Where available, this additional information has been obtained from biennial reports and questionnaires. The following section examines the roles, responsibilities and level of cooperation and communication between various Member States national authorities to implement the IUU Regulation at both an administrative and operational level.

### **Austria**

Following implementation of the IUU Regulation, the Division for Marketing Standards and IUU Fishing within the Federal Office for Food Safety of the Agency for Health and Food Safety (AGES) was designated the role of SLO and the NCA responsible for implementing the IUU Regulation.

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<sup>16</sup> Of the 27-EU Member States (July 2013) Luxemburg was the only MS not to submit a biennial report.

<sup>17</sup> Information obtained from Member State questionnaires and MS missions during this study.

<sup>18</sup> List of Member States and their competent authorities concerning articles 15(2), 17(8) and 21(3) of Council Regulation (EC) No 1005/2008. (2009/C/320/07) [Accessed 28<sup>th</sup> May 2013]  
[http://ec.europa.eu/fisheries/cfp/illegal\\_fishing/info/ms\\_authorities\\_en.pdf](http://ec.europa.eu/fisheries/cfp/illegal_fishing/info/ms_authorities_en.pdf)

<sup>19</sup> Addendum to and amendment of List of Member States and their competent authorities concerning articles 15(2), 17(8) and 21(3) of Council Regulation (EC) No 1005/2008 (2009/C 320/07) [Accessed 28<sup>th</sup> May 2013]  
[http://ec.europa.eu/fisheries/cfp/illegal\\_fishing/info/addendum\\_authorities\\_en.pdf](http://ec.europa.eu/fisheries/cfp/illegal_fishing/info/addendum_authorities_en.pdf)

In total, three persons are in charge of controlling catch certificates within the Division for Marketing Standards. However, responses from the customs authority indicate that two of their staff members help to coordinate clearance of goods with the Agency but it does not have direct roles or responsibilities for implementing the regulation. As such there are no formal mechanisms for cooperation and exchange of information between the NCA and customs authorities.

## **Belgium**

In Belgium, the Sea Fisheries Office (SFO) has responsibilities relating to the IUU Regulation at administrative and operational levels, being both the SLO and NCA. However, according to the biennial report, the inspectorate within the SFO actually conducts all verification/validations of catch certificates. The SFO works closely with the customs authority, the Federal *Overheid Financien*, to implement the regulation. The customs authority is responsible for the inspection and control of catch certificates, including refusal of imports. The customs authority also validates re-export catch certificates, although none have been issued to date.

In addition, a formal mechanism for cooperation has been developed between the fisheries authority and the customs authority (e.g., defining the respective tasks). A single point of contact has been identified within the customs authority so that all information is exchanged through this channel. Administrative guidelines for customs officials have been developed with contributions from the SLO.

Within SFO, two inspectors are involved in the operational implementation of the regulation. The head of inspection is involved at the policy level and acted as adviser when the legal framework was drawn. The responsibilities have not changed since the implementation of the regulation. There are the equivalent of 3.5 full time employees (0.5 working in policy, 2 in inspection, 1 in administrative support) working on the implementation of the IUU Regulation.

## **Bulgaria**

The National Agency for Fisheries and Aquaculture (NAFA) is the designated NCA for the implementation of the IUU Regulation, including validation and verification of the catch certificates and re-export certificates. In addition, the national Customs Agency is responsible for the control, authorisation, suspension and denial of importation or exportation. The National Customs Agency is the administrator for the SMS and coordinates with NAFA.

NAFA is divided into the Central Administration in Sofia and a Fisheries Monitoring Centre (FMC) in Varna and performs the role of the SLO, catch certification scheme and national coordination. A total of 4 persons in NAFA are responsible for the implementation of the IUU Regulation (3 in Sofia; 1 in Varna). All other activities are close to the usual tasks of the staff, so there is no specific designation of the task with regards to the port inspection, the mutual assistance, reporting, enforcement etc.

## **Cyprus**

The Department of Fisheries and Marine Research (DFMR) is the designated SLO and NCA in Cyprus. The Control Division within DFMR is responsible for all the administrative and operational aspects of inspections and control. Formal mechanisms of cooperation and exchange of information also exist with both the customs and veterinary services although neither is designated as national competent authorities to implement the IUU Regulation.

In order for a consignment that contains fishery products to be cleared through customs the sealed and authorised signature of DFMR is needed. Therefore, there is direct communication between the services whenever such a consignment is imported to Cyprus by third countries. Where consignments involve fresh fishery products and the pre-notification time is just a few hours, a physical check is always carried out by DFMR inspectors at the designated point of entry (e.g. Larnaca airport).

DFMR coordinates with the health and veterinary authority, Ministry of Agriculture, Natural Resources and Environment Veterinary Services, to issue all relevant supporting documents for exporting fishery products from vessels flagged to Cyprus to third countries. Furthermore, both services are notified when a product is imported to Cyprus from third countries.

## **Czech Republic**

According to the biennial report and returned questionnaires, two authorities are involved in the implementation of the IUU Regulation within the Czech Republic; the Ministry of Agriculture and the Customs Administration. Their competences have been defined in the Act No. 185/2004 Coll., on the Customs Administration of the Czech Republic, as amended, and Act No. 99/2004 Coll., on Fishpond



Management, on Execution of Fishing Right, on Fish Warden, on Protection of Marine Fishery Resources and on Amendments to Certain Related Acts (Fisheries Act), as amended. A total of 16 persons are involved in the implementation of the IUU Regulation within customs and 2 at the Ministry of Agriculture. The Ministry of Agriculture provides the SLO position.

Due to the fact that the Czech Republic is a landlocked country, the Czech Customs Administration is the designated authority responsible carrying out checks and verifications of the catch certificate in accordance with Article 16 and Article 17 paragraphs (1) to (6) of the IUU Regulation. Customs also conduct the validation and the verification of the section “re-export” of catch certificates in accordance with Article 21 of the IUU Regulation. They also ensure that only customs declarations submitted for the importation of fishery products accompanied by a catch certificate are accepted and the products released for free circulation in accordance with article 12(1) of the IUU Regulation.

If the importation of fishery products is denied based on the outcome of the verification, the Ministry of Agriculture is informed by the General Directorate of Customs. It is the decision of the Ministry of Agriculture as to whether they will impose a sanction for such an infringement.

The role of customs authorities in relation to the importation of fishery products has changed significantly as they have been designated as the competent authority for the checks and verifications of catch certificates. Before the IUU Regulation came into force customs authorities had been ensuring that importation of fishery products covered by a catch documentation scheme adopted by regional management organisations was only allowed if accompanied by a statistical document (e.g., *Dissostichus*, bluefin tuna).

## **Denmark**

Two national authorities have been designated NCAs to implement the regulation at an administrative and operational level: the Danish AgriFish Agency (AgriFish) and the Danish Veterinary and Food Administration (DVFA). Both authorities are under the same Ministry. DVFA is designated as the SLO, situated within the International Trade Division. The main roles of the Danish SLO are to request verifications of catch certificates to other Member State or flag state authorities, provide mutual assistance requests from the Commission and other Member States, issuance of administrative guidelines to the IUU control staff on the veterinary border inspection posts and to importers and identify and provide training of all staff.

DVFA are responsible for import controls at BIPs (providing document, identity and physical inspections) and re-export controls at Aalborg. More specifically, DVFA are responsible for implementing articles 12 – 14, articles 16 – 19, articles 21 – 22, article 24, chapter IX (as regards import except direct landings), article 51 and 55 (as regards import (except direct landings) and re-export). DVFA has issued two administrative guidelines: one for the border inspectors who carry out the IUU import and re-export control, and a separate one for imports. The DVFA did not engage in any control activities regarding fishery policies prior to the IUU Regulation.

The Danish AgriFish Agency has been designated control of verification of catch certificates on landing and validation of catch certificates for exports. In total, DVFA employs around 19 persons equivalent to approximately 6.5 full-time equivalents (FTEs) and the Danish AgriFish Agency employ 13 persons, equivalent to approximately 2 FTEs.

Both DVFA and the Danish AgriFish Agency have established a structured co-operation agreement for the implementation of the IUU Regulation. A coordination group comprising of senior staff from each agency determine the appropriate processes and procedures to coordinate activities, roles and responsibilities and provide cohesion between the two agencies. Meetings are held on a quarterly basis to discuss implementation issues and factors that impact operational effectiveness and efficiencies. Ad hoc queries are addressed as and when required through standard communication channels between DVFA and AgriFish officers on a day-to-day basis.

## **Estonia**

The responsibility for the fisheries sector is divided between the Ministry of Agriculture and the Ministry of the Environment. The Ministry of Environment is responsible for fisheries resources policy, protection and enforcement, and the Ministry of Agriculture for the economic development of the fisheries sector. Responsibility for implementing the IUU Regulation is shared between both Ministries. Within the Ministry of the Environment, the responsibility for implementation has been appointed to a specific department, the Fisheries Resource Department (FRD). The Ministry of Agriculture is the competent authority pursuant to article 15(1) and responsible for validating catch

certificates for exports. In addition, although Estonia does not yet have any designated ports for third country landings and transshipments, the Environmental Inspectorate is the competent authority pursuant to articles 6 and 8 of the IUU Regulation, to carry out catch documentation validation at landings.

The response also confirmed that there are also formal mechanisms in place for cooperation between the Ministry of Agriculture and the Estonian Tax and Customs Board related to managing catch certificate scheme. Verification of catch certificates is carried out by the Tax and Customs Board. The Ministry of the Environment assists the Customs Board and carries out ex-post evaluation, and analysis by excel sheets is done thereafter.

The biennial report states that in addition to these Ministries, the Estonian Tax and Customs Board is the competent authority for imports, indirect imports and re-exported goods under articles 16(1), article 14 and article 21.

## **Finland**

The Ministry of Agriculture and Forestry is the overall administrative body that also acts as the SLO and is the main authority responsible for implementing specific requirements of the IUU Regulation. The responsibilities of the Ministry of Agriculture and Forestry include giving general instructions and guidance to the Centre for Economic Development, Transport and Environment (ETE) for Uusimaa and to customs. The ETE-Centre is a regional administrative body that deals with fisheries issues and verifies all documents of imported fishery products (including catch certificates) and conducts physical checks. There are two members of staff working part time in the ministry and four members of staff (1 full time, 3 part time) working in the ETE-Centre of Uusimaa on the implementation of the IUU Regulation.

To date, Finland has not designated any ports for third country landings or transshipments. Information provided by the Member State questionnaire indicates that verification and validation has been provided for the ETE-Centre of Uusimaa by the national decree "Valtioneuvoston asetus ELY -keskusten tehtävistä". The ETE-Centre (Uusimaa) analyses and verifies the documents of the consignment. An importer clears the consignment of the product and presents the original catch certificate to the Finnish customs. The Customs compares ETE-Centre approved copy of the original catch certificate. If the information in the original and the copy of the product matching the customs gives a number to consignment and clearance and release the product to free circulation. Finnish Customs will act also in the refusal process after a decision made by the ETE-Centre.

The Ministry, ETE-Centre and Finnish Customs have also published guidelines and instructions for verification processes for operators and describes the roles of the different authorities in Finland and how the operators should act when importing fisheries products from third countries which helps with cooperation between authorities

## **France**

Both the *Direction des pêches maritimes et de l'aquaculture* (DPMA, Fisheries authority); and the *Direction Générale des Douanes et Droits Indirects* (DGDDI, customs) are NCAs responsible for implementation of articles 16 and 21 of the IUU Regulation. The SLO consists of a project manager who is specifically responsible for issues related to IUU fishing, with the support and supervision of Bureau Chief and his deputy. The choice was therefore made to create a structure in its own right in what was already in existence, rather than assigning a new task to agents already working on other missions.

Several departments contribute to the implementation of the IUU Regulation. French customs are involved as the authority responsible for the control of imported and exported goods and are responsible for checking the validity of catch certificates for import as well as conducting physical checks of good. There are approximately 2,800 agents involved in these clearance offices.

The Department of Territories and of the Sea (DDTM) are responsible for validating the catch certificates for fish products being exported by EU fishing vessels to be landed in a third country. The National Fisheries Monitoring Centre (CNSP) is responsible for monitoring prior notifications, issuing authorization to land and verification of catch certificates from third country vessels landing fish products in France. Cooperation between the various administrations and institutions is centrally coordinated through instructions and circulars defining the roles and responsibilities of each in relation to the implementation of the IUU Regulation. Currently coordination between administrations is

slowed to an extent by the lack of a database for catch certificates and DPMA considers that there would be benefits of having a database at a European level.

The health and veterinary authority does not have any IUU functions. The roles of the customs and fisheries authorities are set out in the national legislation: Order of 22/12/2009; Circular of 22/02/2012; Circular of 28/12/2009 and Circular of 24/06/2013.

## **Germany**

The overall organisation of fisheries enforcement in relation to the IUU Regulation is divided between fisheries (*Bundesanstalt für Landwirtschaft und Ernährung*, BLE), customs (Zoll), and the veterinary authorities (*Behörde für Gesundheit und Verbraucherschutz*, VEA)). The national level addresses fisheries and customs functions whereas veterinary and public health functions are organised at local level. BLE are responsible for fisheries matters and customs have responsibility for controls on imports and exports of fishery products into and out of Germany.

BLE consists of two departments: The SLO which provides policy and administrative functions under the IUU Regulation including managing catch certificates in addition to coordinating operations of enforcement officers (*Referat 523, Fischereikontrolle*) based at designated ports at 6 of the Federal coastal states.

Customs (Zoll) control the release of fishery products depending on their respective compliance with IUU and public health requirements and also have responsibility for implementing the TARIC measures, on the import and export of fishery products. Customs are involved in monitoring the import, export and transit of fishery products in relation to the IUU Regulation.

The veterinary authority is organised at local level within 16 federal states, across the respective border inspection posts (BIPs). BLE relies on the results of the documentary and physical checks of veterinary authorities at BIPs.

## **Greece**

The Directorate of Marine Fisheries and the Directorate of Fisheries Extension of the Ministry of Rural Development and Food; and the Ports Authority are responsible for implementing the IUU Regulation. The Ports Authority is responsible for inspection and access in designated ports and IUU sightings pursuant to articles 4, 9, 10, and 48, 49 and 50 of the IUU Regulation.

A formal cooperation agreement has been established between these bodies and developed administrative guides provided within circular doc. 108313/24-02-2010.

In total, 15 fisheries officers are involved in the daily procedures associated with checking of catch certificates. Additional cooperation with veterinary and customs authorities is required before fishery goods are cleared although limited information is available about their current roles and responsibilities.

## **Hungary**

No response to formal requests for information was provided in this study by Hungary. The biennial report provided limited information but confirms that the Central Agricultural Office (CAO) is responsible implementing the regulation.

## **Ireland**

Within the Republic of Ireland, the Sea Fisheries Protection Authority (SFPa) is the SLO and is responsible for implementing the IUU Regulation with assistance from the Naval Service (for the provision of FMC services for notification of landings and transshipments) i.e. the Navy inform the SFPa office responsible for the designated port.

The IUU office was established in 2010 following the entry into force of the IUU Regulation. All verifications on imports from non EU countries are made by the IUU Office based in HQ Clonakilty; this office also oversees all legislation and liaisons with 3<sup>rd</sup> country competent authorities, monitoring and compiling national databases for verifications and validations. National validation of catch certificates for exports are conducted at each of the National Fishery Harbour Centres (6) and at Head Office to which responsibility for the premises submitting the application for a catch certificate falls based on the geographic location of the exporter. Notifications of landings and transshipments are made to the FMC Ireland (Naval Service) and they will inform the SFPa office responsible for the designated port who conducts inspections on third country vessels. Verification and re-exportation of

third country catch certificates from vessels conducting direct landings, is conducted by SFPA staff in the respective designated ports in Ireland where the landings occurred.

A Standard Operating Procedure was devised between the SFPA and Border Inspection Post (BIP) management. This identifies specific responsibilities for each party with clearance of produce through BIP's. This process prevents clearance without necessary checks being completed by both parties.

### **Italy**

Italy did not respond to the questionnaires and limited information is currently available on the roles and responsibilities of national authorities. Information obtained from the biennial report indicates that the Directorate General of Maritime Fisheries and Aquaculture (DG PEMAC) is the sole NCA. The main controls are carried out by the Italian Coast Guard. Health and veterinary services support the Customs Agency for products that are imported by road or by air. Furthermore health and veterinary services support the Customs Agency for species identification under Circular No.4/2010.

### **Latvia**

The Ministry of Agriculture (MoA) and Marine and Inland Waters Administration (MIWA) and the National Customs Board, are responsible for implementing the regulation. There have been no substantial changes to the administrative structure since the implementation of the IUU Regulation. Inter-institutional cooperation between authorities has been set in the Rules of the Cabinet of Ministers as well as in the bilateral agreement between the Customs authorities and MIWA. Latvia has adopted amendments to the National Rules of the Cabinet of Ministers No.503 'Regulations on Monitoring Fish Landings and Inspection of Fish Marketing and Transport Facilities, Warehouses and Processing Premises' to transpose the IUU Regulation into national law. The Conservation Management Act (Cap. 425) also addresses the requirements of the IUU Regulation.

### **Lithuania**

The national competent authorities responsible for implementing the regulation are the Fisheries Department and the Fisheries Service of the Ministry of Agriculture. The former provides services on policy level, the latter operational services. Furthermore, according to Resolution No 458 of 2010, the Customs Department under the Ministry of Finance is the institution responsible for verification of catch documents and re-export certificates, which are submitted by the operators for importation, exportation and re-exportation of fishery products. There are formal cooperation and coordination agreements with other national authorities: Customs Department (under the Ministry of Finance); Klaipėda State Seaport Authority; Lithuanian Navy; State Border Guard Service at the Ministry of Interior; and the State Food and Veterinary Service. The agreements cover data exchange; operational responses; joint actions and measures to be taken for inspections.

### **Luxemburg**

No information was provided by Luxemburg during the study or through a biennial report, although it is noted that the Veterinary Administration was listed as their national competent authority for implementing the IUU Regulation.

### **Malta**

Malta did not respond to the questionnaires and limited information is currently available on the institutional structure and the roles and responsibilities of national authorities. Information obtained from the biennial report shows that provisions for the regulation are provided under the Enforcement of Sea Fishing Conventions Order (LN209/11). The Order refers to regulations prescribed by the Fisheries Authority.

### **Netherlands**

The Dutch Food and Consumer products safety Authority (NVWA) is the NCA for implementing the IUU Regulation. Within the NVWA are three departments that provide services covering control strategy, operational inspection and the SLO.

Although, not a national competent authority, customs are the first responsible authority for the verification of catch certificates of fishery products that are imported into the Netherlands. After the catch certificates and other documents are checked, goods are released by Customs and the documents (catch certificates, transport document, etc) are sent to the NVWA Fisheries Monitoring Centre (FMC), section IUU SLO, located in Echt. If Customs have doubts/questions about a transport,

the FMC/IUU SLO is contacted directly. Further verification is then done by the single liaison office. When they approve, Customs will be notified and the goods will be released.

Information obtained from biennial reports and questions indicate that health certificates are also checked by Customs and verified during the physical inspection by the border inspection post (NVWA, Division Veterinary and Import). In addition, all catch certificates and other IUU related documents are archived at the NVWA, FMC/IUU SLO located in Echt. Re-export documents are formatted and validated by the Single Liaison Office IUU. Direct landings of third country vessels are inspected, in the designated port by NVWA Inspectors or the Border Inspection Post (fishery products and accompanying documents). In addition, catch certificates for Member State's national vessels are validated by the liaison office FMC/IUU SLO. During 2012, 15 persons were involved in the implementation of the catch certificates from NVWA.

## **Poland**

Within Poland the Ministry of Agriculture and Rural Development have appointed the Fisheries Department for implementing the IUU Regulation; and two Regional Sea Fisheries Inspectorates (RSFIs) of Gdynia and Szczecin respectively. Changes since the implementation of the IUU Regulation include establishing a Single Liaison Office in the Fisheries Department of the Ministry of Agriculture and Rural Development.

There is an agreement between RSFI in Gdynia and Customs Chamber in Gdynia as well as between RSFI in Gdynia and Border Veterinary Inspectorate in Gdynia regarding the catch certificate scheme. This states that the RSFI is to provide information on the findings and actions taken in relation to a presented catch certificate(s), and communicate the final decision if the catch certificate(s) shall be accepted. Equally, agreements are in place in Szczecin between the Port Authority, the Maritime Office, the Border Guard, the RSFI and the Customs Chamber on the implementation of the catch certification scheme. Currently there are 9 persons directly involved in the implementation of the IUU Regulation and catch certification scheme; 4 staff members at the Ministry of Agriculture and Rural Development and 5 within RSFIs (Gdynia: 4, Szczecin: 1).

Consignments of fishery products arriving by air or land at a BIP are controlled by Ministry of Agriculture and Rural Development.

Customs authorities have been made aware of IUU requirements and especially those related to the catch certificates through a standard operating procedures (SOPs) manual in addition to copies of the IUU handbook (Commission Regulation No. 1010/2009). Included in the guidance manual are instructions on when and where to seek assistance and guidance from the RSFIs.

## **Portugal**

Only the customs authority, *Autoridade Tributária Aduaneira* (AT) responded to the questionnaire. Although not substantiated, AT, have listed a number of responsibilities under articles 4, 6, 12, 14, 15 18, and 19 of the regulation, covering inspections in port to prior notifications; in addition to responsibilities under the catch certificate scheme (importation, exportation, refusal of import etc).

Information obtained from the biennial report shows that the competent authority for implementing the IUU Regulation is the Directorate-General for Natural Resources, Security and Maritime Services (DGRM). These services are based centrally. DGRM cooperates with the Inspection Service particularly in the Fisheries Monitoring Centre (FMC).

At a regional level, implementation is performed by the *Direcção Regional das Pescas da Madeira* (DRPM) in Madeira and the *Inspecção Regional das Pescas dos Açores* (IRPA) in the Azores. The coordination and cooperation between DGRM, DRPM and IRPA is carried out under the Planning Commission and Programming (CPP) Network System SIFICAP.

Cooperation and coordination with the Navy, Air Force, Marine Police and Coastal Control Unit of the GNR is also available through SIFICAP. In total 16 persons are responsible for the implementation of the IUU Regulation; seven staff members from DGRM, five persons within IRPA and 4 within DRPM.

## **Romania**

Romania did not respond to the questionnaires and limited information is currently available on the institutional structure and roles and responsibilities of national authorities from the biennial report. Information obtained from the biennial report shows that the National Agency for Fisheries and Aquaculture (NAFA) is the Single Liaison Office and has been identified as the NCA for the implementation of the catch certificate scheme, involving up to 12 staff. No further information is

available on the roles and responsibilities of national authorities to better understand how the IUU Regulation is implemented at an operational level.

### **Slovakia**

The Republic of Slovakia did not respond to the questionnaires and limited information is currently available on the institutional structure and roles and responsibilities of national authorities. However, the Ministry of Agriculture and Rural Development has delegated the State Veterinary and Food Administration as the competent authority for the implementation of the IUU Regulation. A formal agreement has been established between the State Veterinary and Food Administration and the Financial Administration (i.e. customs) on cooperation for clearing goods.

### **Slovenia**

The Inspectorate of the Republic of Slovenia for Agriculture and the Environment is a body within the framework of the Ministry of Agriculture and the Environment and within the Inspectorate, the Hunting and Fisheries Inspection is directly responsible for fisheries control. The Customs Authority of Slovenia (CARS) is responsible for all aspects of implementing the IUU Regulation, including the SLO. Currently, there are two persons dealing with the implementation of the catch certificate and at an operational level there are 11 customs offices, each with approximately 1-3 customs inspectors. To date, Slovenia has decided not to designate any port as a designated port in accordance with article 5 of the IUU Regulation.

Slovenia is a small fishing country and not export fishery product to third countries. No validation of catch certificates is therefore required for exportation of catches from Slovenian vessels, at this time. However, in case of fishery product export, the Customs Directorate Koper would be responsible for validation of the catch certificate in line with article 15(2) of IUU Regulation. Customs

### **Spain**

The Spanish Fisheries Authority, *Ministro de Agricultura, Alimentación y Medio Ambiente* (MAGRAMA) is the only authority designated to perform functions in connection with the IUU Regulation. Formal agreements and close relationships in connection with the IUU Regulation exist between the Spanish Fisheries Authority, the Customs Authority, the Ministry of Defence and Maritime Service of the Civil Guard. There is also a formal agreement and a close working relationship between the customs authority and the veterinary/health authority. The fisheries authority is split into several units including the Control and Inspection unit, the Authorization unit and the Intelligence unit. There are a combined total of 26 persons working in these units. The units of the Fisheries Authority are responsible for: the control of documentation from imports; license and other verifications for vessels; vessel surveillance through VMS; risk analysis which is used to inform verifications; research on the economic relationships between fishing companies and vessels; physical inspections; and reporting the results of the verification process to customs authorities.

While the Customs Authority is not designated under Spanish law to perform functions in connection with the IUU Regulation, it has always provided assistance to the fisheries authority when required. The Customs Authority withholds clearance on consignments of all fisheries products pending confirmation from MAGRAMA. Authorization issued by fishery authorities is mandatory and binding on the customs authorities. Customs authorities cannot release fishery products without a favourable report from of fishery authorities. Customs perform checks at points of entry and exit on fisheries and other products. Consignments of fishery products will not be cleared by the customs authority without valid catch certificates.

The Veterinary and Health Authority has no direct role in connection with the implementation of the IUU Regulation but it does hold a close working relationship with both the customs and fisheries authorities, especially at an operational level in the ports. The authority is responsible for all veterinary and health controls on the import and export of food products, including fishery products, in accordance with the relevant EU legislation and the controls are performed at ports of entry and exit from Spain including seaports and airports.

### **Sweden**

The Unit for Administrative Control within the Department for Fisheries Management, and the Swedish Agency for Marine and Water Management (formerly Swedish Board of Fisheries), are responsible for implementing the regulation. Up to 5 persons are responsible for the implementation of the IUU Regulation. Sweden has established a co-operation mechanism with Customs and the National Food

Agency regarding inspections of imported products. There is cooperation with the Swedish Customs and the Swedish Board of Agriculture regarding refusal of entry for fishery products and issues related to CITES requirements.

### **United Kingdom**

The UK has three functional administrations for the implementation of the IUU Regulations; England and Wales, Scotland, and Northern Ireland. The overarching competent authority for the UK is the Marine Management Organisation (MMO) reporting to the Department for Environment Food and Rural Affairs (Defra). Within the MMO, there are 2 full time employees as well as other employees who split their time between working on functions for the IUU Regulation and for the CFP reforms. The main functions required for implementing the IUU Regulation have been split between the MMO and Marine Scotland.

Enforcement responsibility at the border is allocated to Local Authorities, Port and Port Health authorities, and district MMO officers. Working in parallel with the UK Customs clearance team these bodies all form part of the UK's delivery partnership. This partnership involves Trading Standards officers and the Food Fraud Unit of the UK Food Standards Agency. The head of the MMO team also works extensively with other UK agencies with an interest in trade, financial fraud, maritime crime and maritime surveillance.

The UK Catch Certificate Centre (CCC) are responsible for the verification and validation of import catch certificates accompanying third country fishing vessel landings and transshipments into England whereas landings and transshipments into Scotland are administered by Marine Scotland. Prior to providing the necessary IUU import clearance to Customs an inspection may be carried out on a risk managed basis. The Port State Control inspection functions are carried out either by warranted officers in the MMO IUU team or coastal officers working for other UK administrations at any UK IUU designated port or BIP. Imports will not be cleared until the inspectors are satisfied and they have liaised with the IUU Catch certificate Centre that all is well. Wales and Northern Ireland do not receive any direct third country landings.

The UK CCC is also responsible for the validation of all UK catch certificates for catches exported as freight to third countries. Checks are done on a risk managed basis some of which are compulsory and will include looking at all the Monitoring Control and Surveillance information necessary to confirm the legality of the catches.

There are formal exchange mechanisms and integrated co-ordination across all partnerships through the SLO and DEFRA to aid the implementation of the IUU Regulation. Cooperation and exchange of information is formal as regards use of the regulator to regulator communication via the restricted Single Liaison Office communications system. A formal cooperation agreement does exist between DEFRA and HMRC (Customs) and the delivery partnerships were set up by Defra in 2009 through formally constituted Project Boards.

To support implementation of the IUU Regulation, the UK has produced a technical guidance manual: *Guidance Note for Enforcement Authorities*. The manual covers key areas of the IUU Regulation requirements related to inspection and control in ports so that officers remain fully informed of the role:

Notwithstanding the fact that there is no formal cooperation agreement in place between the Local and Port Authorities at BIPs and the MMO, a strong close working relationship nevertheless exists between both bodies. The MMO has also provided the BIP with extensive IUU training and general awareness over the past two years. The full details of this training have been provided in the response to the questionnaire.

#### **3.1.1.3 Cooperation, coordination and communication by case study Member State**

A number of challenges were faced by case study countries to implement the IUU Regulation. The first was for the respective national authorities to assess the requirements of the regulation and determine which national authorities should be allocated additional roles and responsibilities for implementation beyond those currently required by their respective sectors. In general this was followed by the need to reorganise and coordinate existing enforcement resources across the national authorities and where necessary accrue new ones to meet the requirements of the regulation. In general, the process was performed over four steps highlighted in Box 1.

These initial steps established the system adopted by case study countries to implement the regulation. Once up and running the countries use standard review techniques to keep their performance on track. These include appointing a steering committee, regular meetings and annual reviews, joint training and workshops and evaluating performance against national goals and regional benchmarks. Selected examples of the approaches and methods used by case study countries are set out below:

In Denmark, the government commissioned a study to assess the most cost effective solution to implement the IUU Regulation. The review covered existing infrastructure and national departments, covering *inter alia*, areas of expertise, physical resources, distribution of offices and IT and information exchange systems. The review also defined the roles and responsibilities of the respective national competent authorities (NCAs), which were enshrined in agreements between the Danish Veterinary and Food Administration (DVFA) and the Danish AgriFish Agency (AgriFish) on the implementation of the IUU Regulation:

- Specifically, DVFA became responsible for operational control at BIPs, covering containerised and frozen consignments entering Denmark; and AgriFish covering landings and export.
- AgriFish was allocated responsibility for the verification of catch certificates for landings and the validation of catch certificates for all exports. The DVFA is responsible for IUU import control, verification of catch certificates for imports and validation of catch certificates for re-exports.

A coordination group comprising of senior staff from each agency determine the appropriate processes and procedures to coordinate activities, roles and responsibilities and provide cohesion between the two agencies. Meetings are held on a quarterly basis to discuss implementation issues and factors that impact operational effectiveness and efficiencies. Ad hoc queries are addressed as and when required through standard communication channels between DVFA and AgriFish officers on a day-to-day basis.

A review was also performed in Germany across the respective ministries<sup>20</sup> in order to determine the best and most cost efficient way forward. Cohesive plans were based on mutual agreement but cemented in national legislation which determined their respective roles and responsibilities. Adaptations required to implement the regulation benefitted from significant changes in the approach to IUU fishing activity that were introduced post 2005, following a major IUU incident. This resulted in the development of robust processes and procedures for coordination, management and operations at national and regional levels (federal States) within Germany. These actions provided a solid foundation upon which to implement the IUU Regulation. The overall strategic approach was to develop a cost efficient and cost effective system that utilised the existing resources. These developments were conducted in a drive to reduce central government overheads year by year.

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<sup>20</sup> Bundesministerium für Ernährung und Landwirtschaft (BMELV), Bundesministerium für Finanzen and Landesministerium.



### **Box 1: Review processes performed by Member State to implement the IUU Regulation**

#### *Step 1: Review*

- Assessment of requirements
- Assessment of resources available from existing authorities and infrastructure
- Identify needs
  - Operational expenditure (OPEX), capital expenditure (CAPEX), departmental adaption including specialist teams or systems
- Develop a plan for implementation and obtain ministerial approval.

#### *Step 2: Establish formal agreements and/or MoUs between the respective national authorities regarding their roles and responsibilities for implementation that set out:*

- Coordination and cooperation management framework (national, regional [Member State and EU Agencies])
- Communication and cooperation management framework (national, regional [Member State and EU Agencies]) and international [third country NCAs]
- Clearly defined roles and responsibilities across delivery partners (NCAs)

#### *Step 3: Carry out seeding activities*

- Provide training and guidance to staff regarding IUU
- Create administrative and operational infrastructure to implement strategic plans.
- Develop standard operating procedures (SOPs) that clearly set out operational and tactical tasks tasks/activities that must be performed by the delivery partners to enact the agreements and /or MoUs

#### *Step 4: Address legal requirements*

- Enact the requirements of the regulation in national legislation.

Prior to 2007, seven distinct inspection and enforcement authorities were responsible for Netherlands border control. Whilst the authorities cooperated with each other on a formal level, it was recognised that greater coordination, cohesion and effectiveness could be delivered between the respective authorities. Therefore a ministerial review was performed.

The review resulted in an agreement between the seven enforcement authorities which defined their respective roles and responsibilities for border controls including fisheries enforcement issues and was entitled Integrated Border Management. The agreement changed the working model from an authority- by- authority approach to delivery through formal partnerships across all authorities including the sharing of expertise and facilities. Specifically, as customs was the primary national authority that receives information on *all* cross border cargo movements; it was given the responsibility for *Integrated Border Management*.

This ground work established a solid foundation upon which to introduce the requirements of the IUU Regulation across the relevant authorities for fisheries control. The review also identified and resulted in the development of a fully integrated system covering information exchange between the relevant NCAs and delivery partners supported by operational manuals that set out the processes and procedures that should be adopted by enforcement officers to ensure a harmonised and standardised approach.

Further developments were delivered in 2012, as the Food and Consumer Product Safety Authority (VWA), General Inspection Service (AID), Plant Protection Service (PD) were integrated into Netherlands Food and Consumer Product Safety Authority (NVWA). The NVWA comprises of six divisions of which two are primarily involved in the control of fishery products.

The respective roles and responsibilities are reviewed at a strategic level by the Ministry of Economic Affairs. An inspection board comprised of senior representatives of the Directorates under the Ministry meet quarterly to determine significant policy and/or operational changes and developments. This activity underpins coherence and cohesion between the respective bodies and maintains effectiveness of the enforcement authorities.

At an operational level working groups made up of staff from the customs, fisheries and veterinary enforcement authorities meet on a monthly basis or *ad hoc* should the need arise e.g. as a result of

identifying a significant threat or risk. Officers from customs and IUU officers from the NVWA Consumer & Safety Division meet twice a year to discuss performance and address any issues and lesson learned in order to maintain operational effectiveness and efficiency.

Equally in Poland the framework for implementing the IUU Regulation was determined by review of (*inter alia*):

- Distribution of competence, expertise and systems
- Framework for delivery
- Distribution of roles and responsibilities for implementation across NCAs and delivery partners.

The review was conducted at national level through a series of meetings at the Ministry of Agriculture and attended by all authorities. According to consultation with Fisheries Department, further development is required and will be achieved by working at the regional level with other Member States, through the EFCA and the mutual assistance system.

In France in 2008/2009 there were discussions at the ministerial level to determine roles and responsibilities. The outcome was that the *Direction des Pêches Maritimes et de l'Aquaculture* (DPMA) was nominated as the competent authority for the validation of catch certificates, the Directorate General of Customs and Excise (DGDDI) was nominated as the competent authority for the exercise of the functions set out in article 16 (submission and checks of catch certificates) and article 21 (re-exportation) of the IUU Regulation, as they were present in the ports and airports. The health / veterinary authority was not given any specific IUU functions. Some restructuring occurred in 2011, resulting in merging three regional Fisheries Monitoring Centres (FMCs) together at Etel, in Brittany. The *Centre National de Surveillance et de protection des Pêches* (CNSP) was created 2012, also based at Etel.

In Spain, the Spanish Fisheries Authority (MAGRAMA) is the sole authority designated to perform functions in connection with implementation of the IUU Regulation, being also the first line of control in connection with IUU matters. Formal agreements and close relationships exist to assist with the performance of functions in connection with the IUU Regulation between Spanish Fisheries Authority/ Customs/ Guardia Civil and Spanish Navy.

### **Agreements and informal arrangements between Member State national authorities**

Within Germany, formal systems such as structured cooperation and information agreements and steering committees have not been adopted. Communication between respective authorities is performed through existing channels available such as email and telephone, should the need arise. This approach is consistent with a streamlined strategy adopted by the German authorities: cost-efficiency is paramount provided operational effectiveness is maintained.

In Denmark, there is a co-operation agreement between DVFA and the customs authority, SKAT, on the application of DVFA rules and requirements for the importation and exportation of goods subject to veterinary control i.e. products of animal origin subject to the presentation of a CVED in accordance with the conditions laid down in Commission Regulation (EC) 136/2004<sup>21</sup>. This agreement is not driven by IUU requirements but aims to address them: Specifically for IUU purposes the agreement provides that...“*SKAT must ensure that consignments of fish and fish products subject to IUU control are not released for free circulation before IUU control is carried out by the DVFA*”.

Within the Netherlands, the respective roles and responsibilities are reviewed to ensure each authority remains on track, underpins cohesion and responds in a timely fashion to emerging trends and developments. At a strategic level the process was performed by the Ministry of Economic Affairs. An inspection board comprised of senior representatives of the Directorates under the Ministry meet four times a year to determine significant policy changes/direction and major operational changes or developments.

At an operational level working groups made up of members from the customs, fisheries and veterinary enforcement authorities from meet on a monthly basis or ad hoc should the need arise e.g. as a result of identifying a significant threat or risk. Furthermore, Officers from customs and IUU

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<sup>21</sup> OJ L 21, 28.1.2004, p 11

officers from the NVWA Consumer & Safety Division meet twice a year to discuss performance and address any issues and lesson learnt in order to maintain operational effectiveness and efficiency.

### **Guidance Manuals and operational coherence and cohesion**

On the job operational support and guidance is delivered through essential information systems and SOP manuals in the case study countries. For example in Denmark enforcement officers in addition to being equipped with cell phones that provide key information generated by the FMC on the risk level of a vessel, details of prior notice and the outcome of catch certificate verification processes; are also issued with SOP manuals. These manuals are produced by fisheries and veterinary authorities cover inspection in BIPs and designated ports, record keeping, catch certificate and inspection databases.

The manuals are treated as live documents. They contain reference to active links which provide further guidance and information sources relevant to implementing the IUU Regulation. As such they are updated on an *ad hoc* basis as required in response to improving efficiencies and effectiveness in the way officers work. An amendment can be typically triggered by the availability of new information or if clarification is required on a specific process or procedure and or interpretation of the regulation. The amendments are also user led: scope of contents, level of detail, format/presentation; driven by the aim to improve officers understanding of their roles and responsibilities. The manuals are updated from the central offices to ensure standardisation of interpretation and application across all areas and delivery partners. A record of amendments is maintained so the evolution of the document can be tracked and the reasons behind the changes.

Germany has also set out responsibilities of enforcement authorities and officers by means of guidelines in order to harmonise and standardise operational activities and records of activities. The contents of the guidelines are intended for use by customs and fisheries officers.

In the Netherlands the fisheries authorities are coordinating closely with the Veterinary & Imports Division regarding their QMS system in order to adopt similar processes and procedures to improve the quality assurance and overall performance of the IUU department within the Consumer & Safety Division. Currently the SLO applies a quality and assurance system applicable to catch certificate validation and verification processes. It is delivered through a live document which is updated on an *ad hoc* basis to continually improve management of these processes and in response to established and emerging anomalies identified in submitted catch certificates. The document also sets out processes and procedures for catch certificate management.

The SOP employed by the Netherlands authorities is supported by an internal handbook specifically for customs staff dealing with procedures and tasks relating to all trade regulatory issues (i.e. non-fiscal issues). Section 6 of this manual deals with the conduct of document checks on such goods imported/exported. This section includes the conduct of document checks on fish and fishery products for IUU purposes. This information is not only accessible to staff but to all other interested parties via the intranet and internet. The manual aids officers complete their role and responsibilities, and specifically those related to fisheries and the IUU Regulation. The manual is treated as a live document and is updated on an *ad hoc* basis. The document is also available for importers and their representatives so that they are also aware of the process and procedure involved and also the requirements that must be met.

On similar lines, the Netherlands SLO has produced guidance manual to assist fisheries officers from the operational units to manage catch certificate validation and verification requirements. The content is presented in a *Question and Answer* format. It is treated as a live document which is updated on an *ad hoc* basis to continually improve management of these processes and in response to established and emerging anomalies. The format directly responds to questions asked by officers in addition to provision of guidance on the articles of the IUU Regulation.

In Poland the customs authorities have been made aware of IUU requirements and especially those related to the catch certificates through a standard operating procedures (SOPs) manual in addition to copies of the IUU handbook (EC Regulation 1010/2009). Included in the guidance manual are instructions on when and where to seek assistance and guidance from the RSFIs. The UK has also produced a technical guidance manual: *Guidance Note for Enforcement Authorities*. The manual covers key areas of the IUU Regulation requirements related to inspection and control in ports so that officers remain fully informed of the role.

#### **3.1.1.4 Scope of implementation by Member States**

A summary of the roles and responsibilities of Member State national authorities (incl. fisheries, customs and veterinary) to implement the IUU Regulation at an operational level is given in Table 1 below. The table highlights that several Member States either do not have seaports or have not designated ports for landings or transshipments by third country vessels at this time.

Clearly, each Member State has designated the roles and responsibilities between each national authority according to their individual requirements, including whether they have a designated port or border inspection post. However, some general trends can be observed. For example, it is noted that Member States that are either landlocked or have not designated a port for third country landings, articles 4 to 11 under Chapter II of the IUU Regulation are not applicable.

From the information available to this study, 12 out of 26 Member States have designated the roles and responsibilities to a single national authority. Of these, Bulgaria, Cyprus, Hungary, Malta, Latvia, Poland, Romania, Spain and Sweden have designated these to the fisheries authority only (or similar), whereas Austria and Slovakia have designated these to the veterinary authority and Slovenia to customs authority only.

Of the remaining 14 Member States, 12 have designated the roles and responsibilities between two national authorities; four between the fisheries and customs authorities (Estonia, France, Netherlands and Portugal), four between fisheries and veterinary authorities (Belgium, Denmark, Germany and Lithuania), three between fisheries and one or more local authority (e.g. Local Port Authority) (Greece, Ireland and the UK), and finally one between both customs and health authorities (Czech Republic). Finally, Finland and Italy have designated roles and responsibilities between three national authorities.

Although good communication and coordination is essential within a single national authority, including development of guidelines and operational manuals, their importance is increased further where multiple authorities are designated within a single Member State to implement the IUU Regulation, which includes inter-agency agreements and additional training requirements etc. Member States must also coordinate with customs to ensure all controls measures related to the IUU Regulation are performed prior to releasing the goods into free circulation.

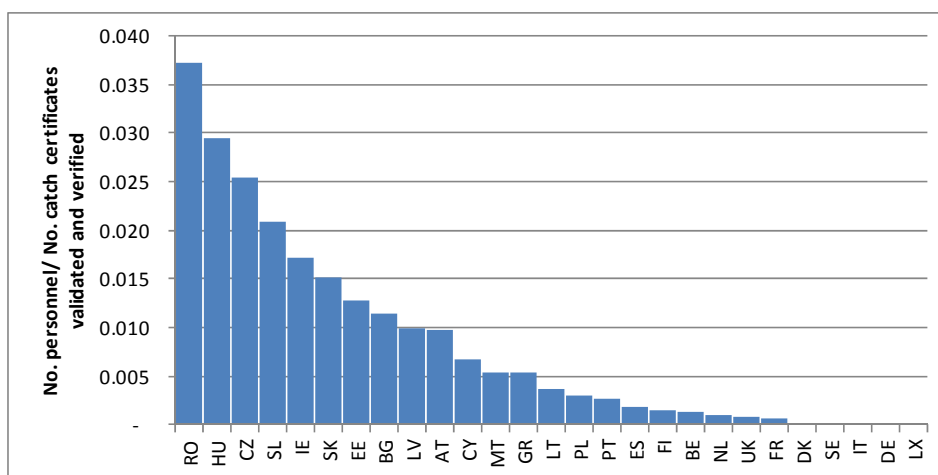
Member States that responded to the questionnaire reported that there were generally good procedures for cooperation between agencies in place to aid the implementation of the regulation but for several Member States the process wasn't described in great detail. For example, Germany and Spain have implemented electronic systems that aid the transfer of information between agencies while other Member States have non electronic communication procedures in place. Moving towards more electronic systems could help to increase efficiency in all Member States. Further details of IT tools developed to support implementation of the IUU Regulation are described in section 4 of this report.

**Table 1: Summary of Member State authorities responsible for the implementation of the IUU Regulation at an operational level**

	Prior notice at designated ports, Article 6(1)	Risk Management (Port Inspections Art. 9)	Inspection in designated ports (Articles 4, 9, 10)	Validate CCs Art. 15(2)	Risk Management (CCs Art. 16 & 17)	Verify CCs Article 17(8)	Refusal of importation Art. 18	Validate Re-Ex CCs Article 21(3)	EU Alerts, Article 23 and 24 (3-5)	Nationals involved in IUU Art. 39(4)	IUU sightings Art 48-50	Mutual Assistance. article 51(2)
AT				x								
BE	-	-	-	•	x	•	•	•	•	x	•	•
BG	•	x	•	•	x	•	•	•	•	•	•	•
CY	•	x	•	•	•	•	•	•	•	•	•	•
CZ				x	x	•	•	•	•	x	•	•
DE	•	•	•	•	•	•	•	•	•	•	•	•
DK	• •	• •	• •	•	• •	• •	•	•	• •	•	•	• •
EE				•	x	•	•	•	•	•	•	•
ES	•	•	•	•	•	•	•	•	•	•	•	•
FI				•	•	•	•	•	•	x	•	•
FR	•	•	•	•	•	•	•	•	•	• •	•	•
GR	•	x	•	•	x	•	•	•	•	•	•	•
HU				x	x	•	•	•	•	•	•	•
IE	•	x	•	•	x	•	•	•	•	•	•	•
IT	-	•	•	•	•	•	•	•	•	•	•	•
LT	•	•	•	•	•	•	•	•	•	•	•	•
LV	-	x	•	•	•	•	•	•	•	•	•	•
LX				x	-	•	•	•	•	•	•	•
MT	•	x	•	•	x	•	•	•	•	•	•	•
NL	•			•	•	•	•	•	•	•	•	•
PL	•	x	•	•	x	•	•	•	•	•	•	•
PT	-	✓	-	•	•	• •	•	•	•	•	•	•
RO	-	-	-	•	x	•	•	•	•	•	•	•
SE	•	•	•	•	x	•	•	•	•	•	•	•
SK				x	x	•	•	•	•	x	x	•
SI				•	x	•	•	•	•	•	•	•
UK	•	•	•	•	•	• •	•	•	•	•	•	•

• Fisheries/agriculture; • Customs; • Health and veterinary; • Other; ✓ implemented (authority not given); x not implemented; - no information available; grey box - not applicable

Implementation of the IUU Regulation may form only part of the duties performed by Member State national authorities, and subsequently no reliable information on costs is available from which to provide an indication of the level of efficiency within each Member State. Instead, an indicator (or proxy) has been estimated to represent the efficiency of implementing the IUU Regulation using the total number of personnel employed to control catch certificates<sup>22</sup> for each catch certificate validated or verified (Figure 3).



**Figure 3: Number of personnel employed (FTE) per catch certificate validated or verified between 2010 and 2012 by Member State**

Data source: Biennial report and this study. No response from Luxembourg (LX).

While it is acknowledged that the information provided in biennial reports and this study may not fully represent the total full-time equivalents (FTEs) to control catch certificates within each authority, the results show some interesting trends. For example, while both Spain and the UK have a comparatively high number of employees, they are amongst the most efficient in terms of processing catch certificates within the EU, whereas Romania, Hungary and Czech Republic are the least efficient.

It is interesting to note that implementation of the IUU Regulation may be exerting an administrative burden on those Member States that have developed processes and procedures that are not fully utilised at this time.

In addition, examination of the roles and responsibilities of national authorities designated by Member States to implement the IUU Regulation at an operational level, show a range of different structures have been established. For example, Denmark and the UK have included more than one national authority whereas Spain and France have undergone more centralisation of their processes and procedures. It appears however, the resultant distribution of roles and responsibilities can be equally efficient whether they are split between multiple agencies or centralised. In part, this may be attributed to the initial formal review process undertaken by Member States in addition to the high level of communication and coordination between authorities. The latter is strengthened by the development of standard operating procedures and instruction manuals in these countries.

### 3.1.2 Inspection of third country fishing vessels in Member State ports

The descriptions and demonstration of systems used by case study Member States for inspection of third country fishing vessels landing and transshipping in designated ports by Denmark, Germany, Netherlands, Poland and Spain follow a similar process and procedure. They comprises of three operational steps under the port State control system:

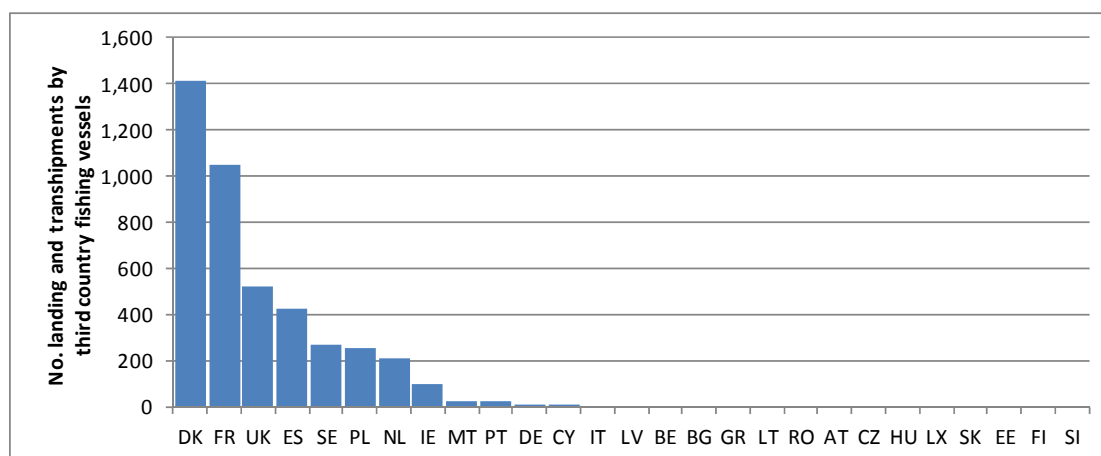
- i. prior notification;
- ii. document checks before the vessel arrives in port;
- iii. physical check of documentation and inspection of the landing or transshipment.

<sup>22</sup> Full-time equivalents (FTE) within MS national authorities obtained from biennial reports and updated from this study.

### 3.1.2.1 Designated ports

Under article 5(1) of the IUU Regulation, Member States must designate a port, or place close to shore, where landings or transhipment operations of fishery products and port services are permitted. In accordance with article 5(4) this information has been published by the Commission<sup>23</sup> and shows that 19 out of a possible 22 coastal Member States have designated ports. Of these, France (24) and Spain (24) followed by the UK (20), Italy (18) and Sweden (17) are among the top five Member States with the highest number of designated ports.

Member States that have designated ports have an added responsibility to control fishery products being landed or transhipped by third country fishing vessels. While the total number of designated ports indicates that greater control measures are required, examination of the total number of landings and transhipments by third country fishing vessels provides an indication of the administrative burden on Member States. Data collected from biennial reports and supplemented by Member State questionnaires showed that 12 out of 19 (63%) Member States with a designated port had landings and transhipments from third countries between 2010 and 2011. Furthermore, the results show that with exception to Denmark, there is a high correlation between the total number of landings and transhipments from third country fishing vessels (Figure 4), and the number of designated ports within a Member State.



**Figure 4: Total number of landings and transshipments by third country vessels between 2010 and 2011**

Data source: Biennial reports and this study. Note: AT, CZ, HU, LX, SK, EE, FI and SI have no designated ports

### 3.1.2.2 Prior notice and authorisation

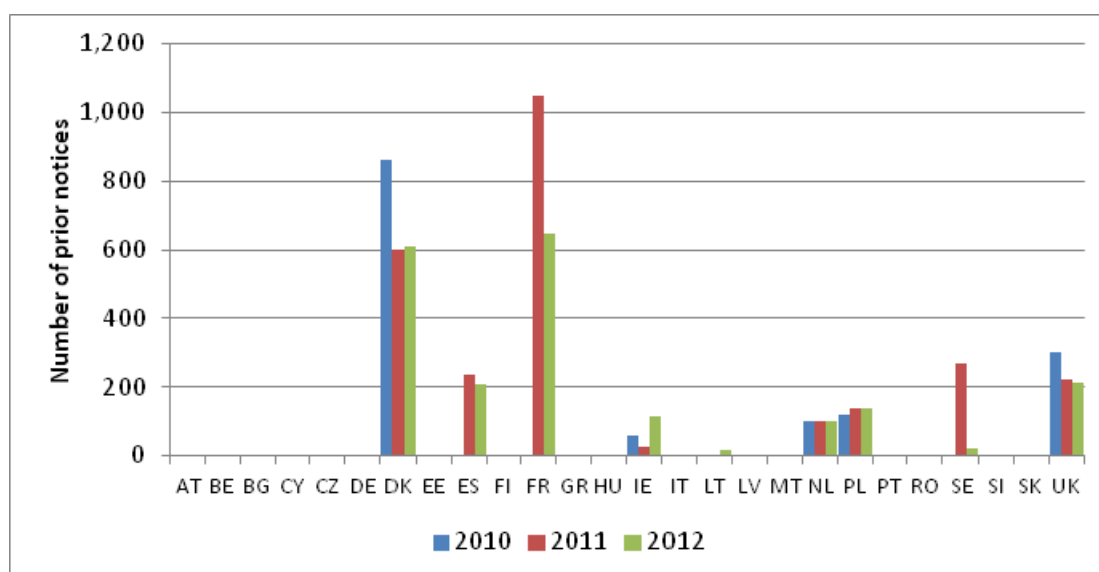
In accordance with article 6(1) of the IUU Regulation, Masters of third country fishing vessels or their representatives must notify the competent authorities of the Member State at least three working days before the estimated time of arrival at a designated port. By way of derogation to article 6(1), article 1 of Regulation 1010/2009 states that vessels landing fresh fishery products by fishing vessels into designated EU ports shall be subject to a prior notification period of 4 hours.

In addition, pursuant with article 7(2) of the IUU Regulation, Member States must complete a document check prior to the vessel gaining access to the port to determine the completeness of the information (including a validated catch certificate) submitted and where appropriate conduct a physical inspection (see section 3.1.2.3).

Information obtained from questionnaires show Denmark, France, UK and Spain have the highest total number of prior notifications from third country fishing vessels requesting access to a designated port between 2010 and 2012 (Figure 5). These results are consistent with the total number of landings and transhipments over a similar time period. With exception of the Netherlands and Poland which

<sup>23</sup> List of ports in Member States where landings and transhipment operations of fishery products are allowed and port facilities are accessible for third-country fishing vessels [accessed August 12, 2013]: [http://ec.europa.eu/fisheries/cfp/illegal\\_fishing/info/designated\\_ports\\_en.pdf](http://ec.europa.eu/fisheries/cfp/illegal_fishing/info/designated_ports_en.pdf)

have remained relatively stable, Denmark, France, Spain, Sweden and the UK have shown a decrease in the number of prior notices between 2010 and 2012.



**Figure 5: Number of prior notices received from third countries for landing and transshipment of fishing vessels between 2010 and 2012**

Data source: this study. Note: AT, CZ, HU, SK, EE, FI and SI have no designated ports. No responses from HU, IT, MT, PT, RO and SK.

Limited information was provided from questionnaires on the processes and procedures undertaken by Member States to implement article 6(1) of the IUU Regulation. In total, eight Member States did not return fully completed questionnaires (Germany, Hungary, Italy, Luxembourg, Malta, Portugal, Romania, and Slovakia). Of these, five Member States (Germany, Italy, Malta, Portugal and Romania) have designated ports.

Information provided by Member States questionnaires indicates that their processes and procedures were very similar and in accordance with the IUU Regulation. They specify the need for a pre-notification at least three days prior to the arrival (four hours for fresh fish) with details of fish quantity, species or fish products so that a landing permit can be issued or at least. A pre-landing declaration must be sent at least three hours before landing and will normally be sent together with the prior notification.

Information obtained from questionnaires indicates that only three Member States had refused prior notices; Germany (a total of four in 2012 and 2013 by the same vessel), the Netherlands (one in 2010), and Spain (a total of two in 2011 and 2012). While France reported that they had not refused any prior notices, a small number had been suspended due to a lack of information pursuant to article 17(7) of the IU Regulation. Spain reported that actions that had been taken when they had refused prior notices included the detention of the vessel, forfeiture of fishery products and the seizure of relevant articles. Meanwhile, Lithuania reported that there had been two cases of non-compliance in 2012 and eight cases in 2013 although no further information was provided on what action had been taken.

In addition, six Member States gave an estimation of the number of vessels which submitted prior notices within the three working day period. Of these, Denmark reported between five and ten on an annual basis, whereas Ireland had only one vessel in 2011. This would suggest that the majority of consignments were frozen fishery products. In contrast, the Netherlands, Spain, Poland, Sweden and the United Kingdom indicated that most, if not all prior notifications had been received within three days, indicating these consignments were mostly fresh fishery products.

All twelve Member States that responded to the questionnaire considered the period of prior notice to be sufficient to implement necessary control measures under the IUU Regulation (Bulgaria, Cyprus, Denmark, France, Ireland, Latvia, Lithuania, the Netherlands, Poland, Spain, Sweden and the United Kingdom). This view was supported by information obtained from biennial reports.



## **Implementation by case study Member States**

All case study visits to Member States designated ports demonstrated that the prior notification and relevant documents, including the catch certificate were sent in advance of landing to the Fisheries Monitoring Centre. This centralised body is able to undertake all document checks, including verification of the catch certificate. Given the range of information and document cross-checking required, a centralised body provides greater efficiency. However, this requires good coordination and communication with local authorities at designated ports.

Spain demonstrated that document cross checks were made with VMS tracks and specific licensing agreements. As the vessel approaches the port, the vessel was tracked using AIS on mobile devices to ensure inspectors were present at the prior to the time of landing or transhipment.

In addition, a risk assessment is also completed for the vessel (see section 3.1.2.3), including checks on the EU IUU vessel list, to determine whether a physical inspection might be required. In addition, Spain has developed their own vessel database that includes a wide range of specific vessel characteristics, including various size measurements, colouration etc (IT tools, section 4).

On arrival in port, all documents are then physically checked and cross-checked by local Officers with any other sources of information. This may include evidence collected by customs and veterinary authorities. Depending on the outcome of the risk assessment and physical checking procedures, the vessel may undergo a physical inspection.

### **3.1.2.3 Inspections at designated ports**

Section 2 of the IUU Regulation outlines the processes Member States must carry out to perform port inspections of third country fishing vessels in designated ports.

#### **General Principles - Risk based management**

Pursuant with the procedures outlined in article 9(1) of the IUU Regulation, Member States must carry out inspections in their designated ports of at least 5 % of landing and transhipment operations by third country fishing vessels each year on the basis of risk management.

Information available from returned questionnaires confirms that those Member States that have not established a designated port (cf. section 3.1.2.1) do not have a risk based management system in place for performing a physical inspection in port of landings and transhipment of third country vessels.

Of the remaining 19 Member States with a designated port, eight stated they have not implemented a risk based management system at the time of this study. Of these, Belgium, Bulgaria, Greece and Romania did not report any landings and transhipments, which may help explain why they have yet to develop a system. Moreover, Cyprus, Malta and Latvia do not have a risk based system specifically for third country fishing vessels, but due to the relatively small number of landings and transhipments from third countries it is more efficient for national authorities to conduct physical inspections on all vessels following document checks (i.e. 100% coverage). Information obtained from Member State questionnaires indicates that if the number of landings and transhipments from third country fishing vessels were to significantly increase, their strategy would be reviewed. In comparison, Poland, Ireland and Sweden have a modest number of landings from third country fishing vessels and do not have a specific risk management system for these vessels.

Information obtained during the Polish case study indicates that fisheries officers from the RSFIs were fully aware of potential IUU behaviours and practices that represent potential or elevated risk and are able to apply this expertise as part of the catch certificate verification process (see section 3.1.4). However, the response provided in the Member State questionnaire indicates that a simplified approach is applied in which those vessels that have been operating in an RFMO area i.e. NEAFC are prioritised for a physical inspection.

Similarly, Ireland has not employed a specific risk based management approach for physical inspections of landings and transhipments by third country fishing vessels, as all consignments have originated from Norway, deemed a low-risk country. Nevertheless, all third country fishing vessels are visited and checked on arrival and the level of physical inspection then determined based on the outcome of the initial document checks.

The remaining Member States that have developed a risk based management system for port inspections utilise a suite of corroborative evidence and intelligence from multiple sources including from established networks and reliable confidences; other Member States, and information from at-sea and aerial surveillance platforms. The process is supported and delivered through the Mutual Assistance system, via the SLO. Port State authorities may also submit a request for information from the flag State authorities to corroborate evidence provided by the vessel. This may include VMS/AIS tracks to confirm vessel activity; plus confirmation of authorisation/licence to fish and/or tranship as demonstrated by the Spain authorities in the port of Vigo.

Observations during case studies revealed different methods employed by Member States to implement a risk based management approach and those involving Denmark, UK, Germany, France and Spain are highlighted below.

Denmark revealed a new system has been developed and introduced for risk based management which combines the outputs of several databases/ information sources which are run through a model (algorithms) to produce a risk index currently for each Danish flagged vessel. It is intended to expand the approach and system to include third country fishing vessels once the most accurate factors for the model are determined following testing. A risk assessment group was established in 2008 and the establishment of a risk based system was established at the same time. This type of system is likely to be very effective but would be less efficient than other less complex approaches.

The United Kingdom for example, employs a simpler approach for risk based management using a “deck of cards” analogy based on standard risk indicators: species, product, flag, vessel type, trade flow, veracity of control documents, and countries involved. Assessment protocols have been developed for each risk indicator. If a vessel demonstrates high risk characteristics it will be reflected in the strength or severity of the cards or “hand” it has been awarded. A decision to inspect can then be taken. The system is facilitated by intelligence from a range of sources. Officers performing enforcement at designated ports comprise of MMO fisheries officers based at local offices/ districts on the coast, and officers from port and local authorities. The UK’s approach was to design a risk based management that is easily communicated to, and understood by all enforcement agencies (i.e. not just those involved in the fisheries sector). The aim was to promote buy-in and maintain relevance; effectiveness and efficiency. Furthermore, IUU requirements and inspection performance have been delivered through, education programmes, workshops, liaison and SOP manuals across the respective NCAs and delivery partners involved in operational enforcement.

Germany uses a simple risk based management approach that focuses on the identity of the flag State, species and product type. The rationale given was that the risk of IUU products from landings and transhipments is minimal given the low number (n=2) landings by third country vessels and the robust controls in place for German flagged vessels. Furthermore, both the UK and Germany had previously performed risk based inspections of fishing vessels under NEAFC and NAFO Port State Control measures as well as other CFP port State control regimes (e.g. EC Regulation 1542/2007 for pelagic weighing<sup>24</sup>).

In France, the risk based management system for port inspections is set out on a national level by the *Plan National de Contrôle des Pêches* (PNCP), which informs the strategic component of the system (i.e. gear types, time of year etc.). The risk assessment is implemented on a regional level by the *Directions Interrégionales de la Mer* (DIRM) through the *Plan Inter-Régional de Contrôle des Pêches* (PIRCP), which adapts the risk assessment to regional problems and activities. The FMC is centralised and coordinates all units in the field and targets inspections and controls based on the risk assessment.

In Spain, the risk based management system uses different risk criteria and a value is assigned to each (i.e., 10 [vessels included in the IUU lists when they access a port] to 1 [participation of an economic operator recently established]). The risk criteria are used to develop risk values (categorised as High, Medium or Low), that determine what action should be taken.

To better inform the risk assessment and identify emerging levels of IUU-related fishery products, the Spanish authorities employ a full-time forensic risk analyst to examine global trade, trade patterns and markets. This approach has proven highly successful, and has identified small-scale changes in trade patterns (e.g. movement of specific consignments of IUU-related fishery products away from

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<sup>24</sup> Commission Regulation (EC) No 1542/2007 of 20 December 2007 on landing and weighing procedures for herring, mackerel and horse mackerel (OJ L 337, 21/12/2007, p. 56).

designated ports into containers). Although deemed very effective, this highly sophisticated approach is not very efficient for a single Member State to maintain, which ultimately may not be sustainable in the medium to long-term.

Further to these reported risk based assessment systems, it was reported during case study visits that where any doubt should occur about the information presented during the initial document checks or through additional information obtained after the fishing vessel has entered port, a physical inspection will be triggered. Further information about inspection procedures in designated ports are provided below.

Examination of the risk based assessment systems used by Member States show it may be more efficient not to develop a system but rather conduct a physical inspection for all vessels (e.g. Cyprus, Malta and Latvia), whereas Germany, with a similarly small number of landing and transshipments from third country fishing vessels, has employed a simple risk based assessment system. While the UK has considerably more landing and transshipments from third country fishing vessels than Germany, it has also developed a relatively simple risk assessment approach that is deemed both effective and efficient to operate. In contrast, Denmark is developing a highly sophisticated risk assessment system that should be implemented in the near future. This is expected to be more efficient or effective than their current system, although no further details are available.

Case study visits demonstrated that inspectors utilise a range of information to inform their decision-making, including the results from the initial document checks, outputs from the risk assessment and other information obtained after the vessel has arrived in port. In addition, a series of random physical inspections are undertaken each year to validate their risk assessment systems. Spain, France and Denmark stated that the results of all inspections were uploaded into a control database that is used to update the risk based assessment, thus keeping it relevant and effective. Development of appropriate supporting IT tools ensures these processes and procedures are also sustainable.

### **Port Inspection and infringements**

The total number of inspections and infringements of third country fishing vessels landing or transshipping in Member State designated ports between 2010 and 2012 is shown in Figure 6. Without a clear breakdown of their respective category, vessels flag, species and or product on board, or a description of the inspection system it would be inappropriate to draw solid conclusions from these data. For example the level of risk associated with the landings may have been relatively low and hence the lack of infringements detected. The level of inspection, administrative, gear, control documentation, cross checks through mutual assistance and verification requests, hold inspection, level of sampling of catch by species and product are also factors that will determine the level of infringements detected. The quality of the inspections and whether it is a significant factor can be ascertained by DG MARE's audits and inspections of Member State enforcement actions as visits to case study countries did not provide opportunities to observe inspections of third country vessels.

However, the case study visits to Netherlands, UK, Denmark, Poland all indicate that the characteristics of their national and third country fishing vessels that operate within their maritime zones and use their ports has not changed significantly and robust regulatory frameworks have been extant for a number of years e.g. NAFO and NEAFC port control schemes.

Of note are the number of inspections and infringements in Spain; which could possibly be a result of increased monitoring and surveillance effort in relation to the number of landings (and based on the number of prior notices in Figure 5).



**Figure 6: Total number of inspections and infringements detected for third country fishing vessels landing and transhipping in Member State designated ports between 2010 and 2012**

Data source: Member State biennial reports. No responses: DE, HU, IT, MT, PT, RO, SK, UK

Of the 19 Member States that have established designated ports only Portugal and Romania have not provided information on their respective systems that are in place.

No landings or transhipments of third country vessels were reported by Belgium, Bulgaria, Greece, Latvia, Lithuania, Romania and Italy were but responses to questionnaires indicate that contingency to implement an inspection is in place for some of these Member States. No further details were provided.

Belgium confirmed that no landings of third country vessels occurred and no further details. However, in Bulgaria, despite no activities by third vessels and absence of a risk based methodology for port inspection, their enforcement officer will inspect a vessel immediately should one occur. But it is not clear if it is officers from National Agency for Fisheries and Aquacultures (NAFA) or Maritime Administration Agency and Bulgarian Ports Infrastructure Company as these authorities are responsible for port access and granting of port services. Greece has allocated the responsibility of inspection to competent Port Authorities for access to third country vessels in the designated ports. In addition the inspections will be based on the benchmarks laid down in the article 4 of Regulation 1010/2009.

Latvia reported that there have been no transhipments or third country landings in designated ports after the adoption of the IUU Regulation, due mostly to the geographical location of Latvia. If any such landing or transhipment were to occur, an inspection would immediately result. However, a risk management system has been developed for the EU fishing vessels' landings in Latvian ports based on species, amounts, history of vessel etc. according to article 62(1) of the Control Regulation.

In Lithuania, national legislation<sup>25</sup> covers landings of fisheries products from third country fishing vessels and determines the sampling plan for third country fishing vessels landing (transhipment) risk management, including the identity of risk categories and their respective level of priority. To date, only transhipments have occurred and based on 16 prior notices in 2012 and 35 in 2013. No information was provided by Romania or Italy.

### Port inspection and infringements in case study Member States

In the Netherlands operational inspection and control activities at the quayside for landings and transhipment operations utilise an external agency that specialises in the provision of security services. The agency is alerted by the NVWA (Operational Enforcement division) with the details of

<sup>25</sup> Order No V1-22 of the Director of the Fisheries Service

the vessel, the logistical details of the operation, species, product and amounts involved. The agency dispatches a team comprising of five to six members to monitor the operation. The process is coordinated by an officer from the NVWA. The team is tactically placed at the quayside to monitor all aspects of the unloading process and deposit of the products. Each pallet unloaded is counted and the number of boxes per pallet verified. The pallets are randomly sampled to ensure that raising factors used to determine the total amount of product landed/transhipped is accurate. In addition, a number of individual boxes are weighed and the packing removed in order to calculate the correct raising factor with which to determine the total weight of allocated for each pallet is accurate.

A record of the total number of landings and transhipments is maintained and entered on to a centrally maintained database. All activities and records associated with the landing are also entered, including if an inspection has been performed. Therefore the level of inspection can be monitored and increased / reduced as required following consideration of the relative risk.

In Denmark, following prior notification, duty officers at the FMC notify enforcement officers in the respective port of the pending landing of a Danish flagged vessel with products destined for export. Duty officers refer to the vessel's risk index (see previous section) and vessels inspection/compliance history in order to determine if the vessel warrants an inspection. The inspection history of vessels can be referenced using the vessel's registration number. The output is a record of inspections conducted in the previous year and notes on any key findings. It provides an invaluable tool for vessel profiling prior to an inspection.

During an inspection, the vessel's fishing gear is checked for compliance with technical and conservation measures specific to that fishery followed by cross checks between the amount recorded in the logbook and the amount landed by species and product and within the allocated quota utilised (if relevant) by the vessel to date. The inspection may also include a comparison of VMS track records (based on one hour intervals) and effort records entered in the logbook.

A report of the inspection is generated and uploaded into the control database. Furthermore the record of inspections is also one of the factors used to inform the risk based management developed by Denmark.

### **3.1.3 Inspection of fishery products from third countries at EU Border Inspection Posts**

As previously highlighted in section 3.1.2 above, all consignments of fishery products from third countries entering the territory of the EU except fresh unfrozen fish imported directly from fishing vessels<sup>26</sup> require the same checks and controls under the IUU Regulation pursuant to the procedures laid out in articles 14, and 17.

Veterinary authorities and sometimes customs are present at BIP ports, and Member States may coordinate with one or both authority to implement necessary controls under the IUU Regulation. A summary of the roles and responsibilities of national authorities to control consignments of fishery products at BIPs was presented in section 3.1.1.2 above, whereas specific details of the processes and procedures undertaken to verify and validate catch certificates are provided in section 3.1.4. However, limited information is available from biennial reports and responses to Member State questionnaires within this study.

Similar to the port State controls used for landings and transhipments by third country fishing vessels at designated ports, the descriptions and demonstration of systems used by case study Member States for inspection of third country imports at BIPs follow a similar process of prior notice, document checking and physical checking.

#### **3.1.3.1 Inspections at BIPs**

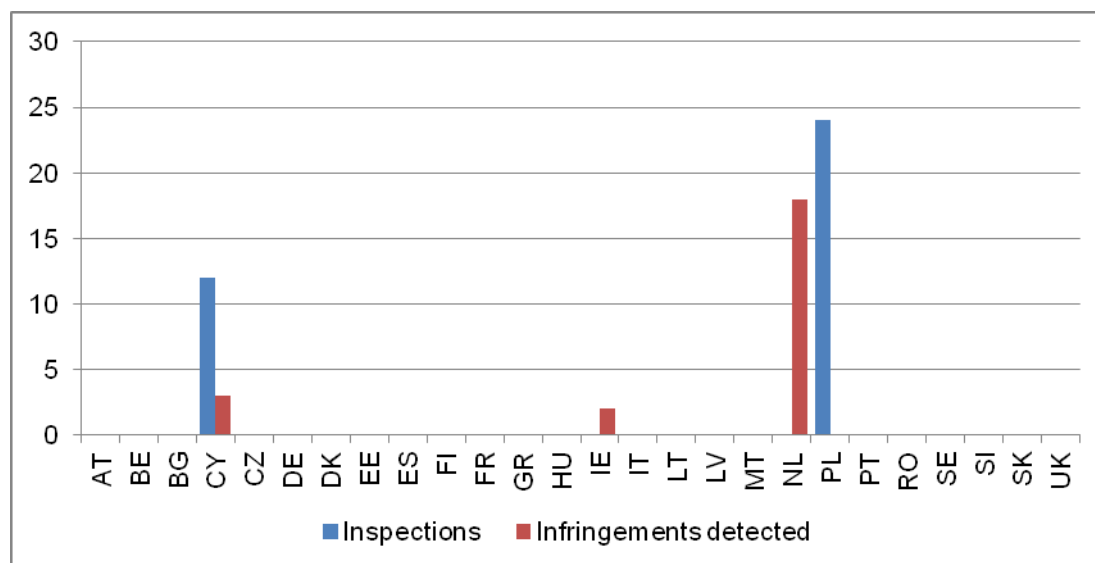
Similar to the controls required for importing consignments of fishery products from third country fishing vessels at designated ports, appropriate controls must also be taken at all other points of entry where consignments of fishery products enter the territory of the EU.

Information on the total number of inspections and infringements of consignments of fishery products from third countries at BIPs was very limited. This is partly due to the level of data aggregation

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<sup>26</sup> This includes imports from fishing vessels as well as containerised vessels at designated ports in addition to consignments of fishery products imported via air, road and rail.

presented by each Member State. Data available for containerised vessels show Cyprus, Ireland, Netherlands and Poland have undertaken inspections at BIPs (Figure 7). Due to the small numbers of consignments, no information is available on the number of inspections and infringements for fishery products arriving by air, rail or road.



**Figure 7: Total number of inspections and infringements detected for third country vessel containers between 2010 and 2012**

Data source: Member State biennial reports. No responses: DE, HU, IT, MT, PT, RO, SK, UK

The Netherlands provided a demonstration of their inspection and control scheme in place at Rotterdam for containerised vessels. The respective roles and responsibilities of the national authorities are reviewed at a strategic level on a quarterly basis and at an operational level working groups made up of members from the customs, fisheries and veterinary enforcement authorities meet on a monthly basis in addition to performance reviews twice a year in order to maintain operational effectiveness and efficiency. As such the key factor that has resulted in the level of detection of infringements is the respective level of organisation and coordination of enforcement activities as described in section 3.1.2.

In Denmark, the DVFA is responsible for both veterinary border control and IUU controls, including inspection procedures. The document and physical checks completed during routine veterinary checks are completed at the same time and therefore increase the level of efficiency during the inspection procedure. Information provided in catch certificates and health certificates / CVEDs is compared. For instance information on the origin of the fish given in the catch certificate is relevant to the veterinary checks particularly for processed products and has been used to identify products under veterinary restrictions (Japan).

If a consignment is rejected due to IUU control, it will also be rejected at the veterinary border control and the reason in the CVED for rejection will be “other”. If a consignment is rejected at the veterinary border control, it will also be refused for import at the IUU control (the reason for refusal will be filled in on the catch certificate as “rejected by the veterinary border control”). Messages will be passed to the relevant authorities in DK (customs) other Member States or relevant flag States. The Danish AgriFish Agency and DVFA share a common database for filing catch certificates and control results.

During the visit to Felixstowe in the United Kingdom the inspection process was explained. It begins following the receipt of notifications of incoming consignments from the Port Community IT System (an electronic manifest system operated by the Felixstowe Port Authority). The Port Community IT System is linked directly to the in-house PHILIS BIP IT system. This latter system is used by the BIP to manage its day to day control activities which covers checks in relation to both veterinary/health and IUU requirements. If the fishery products meet the veterinary and health requirements the BIP validates the CVED and returns it to the importer. If the fishery products do not meet these requirements, consignments are not allowed to proceed. Information on conforming and non-conforming consignments is inputted to the TRACES system which is available to all Member State BIPs.

Spain has developed rules to regulate transit operations of fish products to other Member States. Specifically this type of operation is regulated in the Order ARM/2077/2010 of July 27, for the access control to port services of fishing vessels of third countries, transit operations, transshipment, import and export of fishing products to prevent, deter and eliminate IUU.

In case of the arrival of fish product consignments by any other means of transportation, articles 7 to 11 of this Order are implemented. The importer in this case must request the authorisation to transit fishing products to the *Secretariat General del Mar*, through the request contained in Annex I of this Order, which shall include a copy of the validated catch certificate, the information relative to transport and documentation. The original catch certificate and, when appropriate, the related documentation referred will be presented by the importer to the competent authorities of the Member State of destination as per article 19 of the IUU Regulation.

Where the BIP is situated at a designated port, maritime officers of the civil guard are available to conduct physical inspections for IUU purposes. If however, a consignment was imported at a terrestrial BIP (e.g. an airport), custom controls block the import until a civil guard relocates to conduct the physical inspection.

The results of the physical inspection are provided to the central control agency through SIGCPI. In certain places (e.g. Las Palmas), customs and fisheries authorities carry out joint actions based on a checklist developed for control and inspection of reefers.

### 3.1.4 Catch certification scheme

The EU catch certification scheme for importation and exportation of fishery products is described under Chapter III of the IUU Regulation.

This section addresses the arrangements and systems put in place by Member States for managing catch certificate requirements. A catch certificate must accompany a consignment of fishery product under one of the following scenarios:

- **Indirect importation** (article 14): Importation of a single consignment of fishery product, transported in the same form to the EU from a third country other than the flag State. An EU catch certificate must be *validated* by the flag State unless the species concerned is subject to recognised RFMO catch documentation scheme. A *verification* of the catch certificate by the verifying authority of the Member State must be undertaken in accordance to article 17.
- **Export** (article 15(1)): The exportation of catches made by fishing vessels flying the flag of a Member State must be *validated*, if required by the framework of cooperation laid down in article 20(4). Equally a catch certificate must be generated and *validated* for the products that are caught by a Member State vessel which will be exported to a third country for processing, and then imported back into the EU;
- **Re-Export** (article 21(1)): Catch certificates must be *validated* by the competent authorities of the Member State for products that are re-exported (goods that will be exported from the EU that have previously been imported).

Clarification of Member State authorities responsible for managing their respective catch certificate scheme has been compiled in Table 1, sourced from responses to the questionnaires. For those Member States that did not respond to the Member State questionnaire developed in this study (e.g., Italy), information was sourced directly from their biennial report, where available.

The processes and procedures undertaken by Member State national authorities for **verification** and **validation** of catch certificates are set out in the following sections.

#### 3.1.4.1 Submission and document checking

It is noted under recital 2 of Regulation 1010/2009 that consignments of fishery products arriving by air, rail or road require a shorter period of prior notice than three days. By way of derogation from article 16(1) of the IUU Regulation, the submission of catch certificates for imports of fishery products in consignments by these other means of transportation are outlined in Annex VI of Regulation 1010/2009:

- Airfreight: 4 hours
- Road: 2 hours
- Railway: 4 hours

Limited information is available from Member States to determine the roles and responsibilities of national authorities and their processes and procedures to control consignments of fishery products at BIPs (see section 3.1.1). Information available from Member State case studies, demonstrate similar processes and procedures for prior notification and authorisation are followed by national authorities at BIPs. For example, within the specified timeframes for different modes of transport and fishery products, prior notifications are received by the FMC to undertake all relevant document checks, including catch certificate verification using a centralised risk based assessment system. The results of the document check are then passed on directly to the BIP where physical document checks take place. A physical inspection may occur on the basis of the risk based assessment.

Given the low level of consignments of fishery products from third countries arriving by air, road or rail, Member States have indicated they have sufficient time and resources to carry out these checks. The majority of prior notifications at BIPs are for containerised vessels which require a three day submission period. Information on the total number of catch certificates checked at BIPs can be obtained from TRACES available on place of entry.

#### **3.1.4.2 Validation of catch certificates (export and re-export)**

A catch certificate must be validated by the competent authority of the flag Member State for export (article 15(1)) and a re-export certificate for re-export (article 21(1)) of fishery products. The following sections describe the processes and procedures for validating catch certificates for export and re-export of catches for each Member State at an operational level.

##### **Export**

Validation of catch certificates for export is required where catches made by fishing vessels flying the flag of a Member State are to be exported to a third country requesting a catch certificate<sup>27</sup> or if the products are intended for re-import after processing. The number of catch certificates validated for export by each Member State is shown in Figure 8. Data collected from biennial reports and this study shows that Germany currently validates the highest number of catch certificates for exports across all Member States, followed by Netherlands, Italy and Spain.

It is noted that five Member States (Austria, Czech Republic, Hungary, Luxembourg and Slovakia) have no flag State fishing vessels, and since freshwater fishery products are excluded from the IUU Regulation<sup>28</sup>, they are not expected to validate catch certificates for export and have not nominated an authority for this responsibility.

In addition, Cyprus, Greece, Romania, Slovenia, Finland, and Malta do not have any systems in place at this time for validating catch certificates. This is primarily due to the fact that Member States have negligible requests to validate catch certificates that warrants time and expense in developing a system. It should also be noted that Italy, Malta and Greece export fishery products to third countries, but this is through the ICCAT catch documentation scheme for bluefin tuna, and is not reported in the biennial reports.

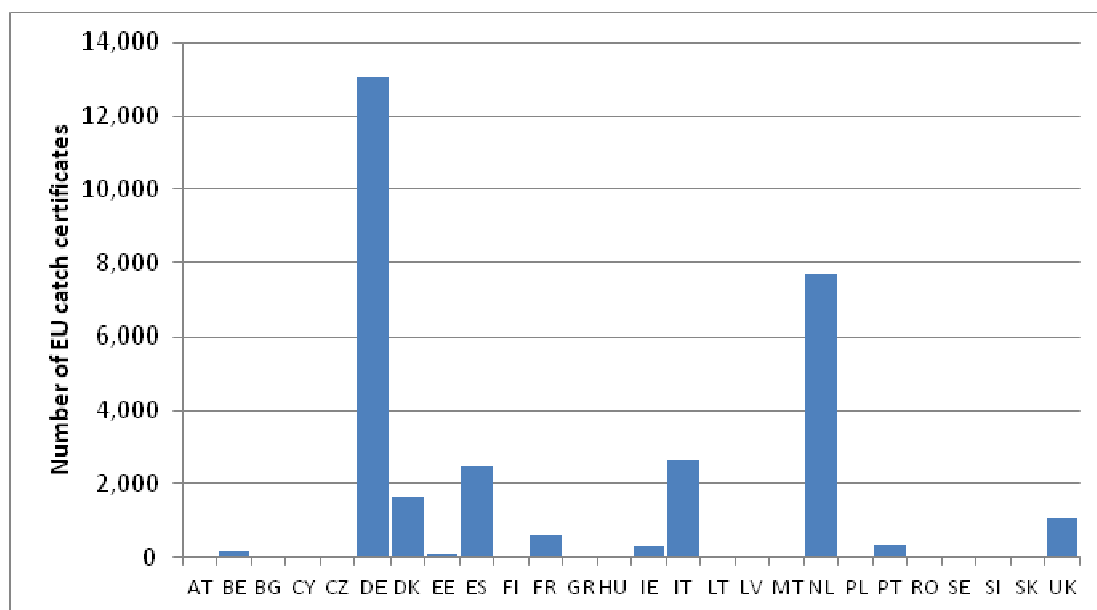
For the majority of Member States that are required to do so, validation of catch certificates for export occurs by the fisheries authority (cf. Table 1). With the exception of the case study Member States, limited information is available on the detailed processes and procedures of other Member States to undertake validation of catch certificates for export.

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<sup>27</sup> [http://ec.europa.eu/fisheries/cfp/illegal\\_fishing/info/list\\_of\\_third\\_countries\\_en.pdf](http://ec.europa.eu/fisheries/cfp/illegal_fishing/info/list_of_third_countries_en.pdf)

<sup>28</sup> Species listed under Annex 1 of Commission Regulation (EC) 1005/2008 and as amended by Commission Regulation (EU) No 86/2010 and Commission Regulation (EU) No 202/2011.





**Figure 8: Average number of catch certificates validated for export from Member States between 2010 and 2012**

Data source: biennial reports and current study. No responses from HU, IT, MT, PT, RO and SK.

In Denmark, the process for validating a catch certificate for a product for export caught by Danish flagged vessel was presented. The process requires that the vessel agent generates a catch certificate and submits it to the IUU desk of AgriFish for consideration. The duty officer performs a number of checks and activities, following instructions set out in a guidance manual:

- Completeness and accuracy of the details entered in to the catch certificate;
  - a zero tolerance policy has been adopted by authorities if a catch certificate is incomplete or inaccurate
- The species and amount recorded that will be landed compared with the values entered into the logbook and later the sales note;
- Any discrepancies are noted and recorded by species and amount.

If the vessel and certificate conform to requirements, a catch certificate number is generated using an automated numbering system. All records associated with the checks and with the landing are filed under the catch certificate number, creating a unique record. A hard copy catch certificate is produced which is stamped and signed by the duty officer; scanned and a record made under the case file for the catch certificate. The catch certificates and associated records are retained for at least 3 years. Officers are required to follow a final cross check prior to validating the certificate, which retraces the original steps taken in the validating process to ensure that they have been completed fully and correctly; plus filed correctly. The process is facilitated by a checklist which must be completed and filed with the respective catch certificate. The validated catch certificate is sent by e-copy to the agent

In Ireland, the validation process is performed by the local port office of the NCA e.g. Killybegs Sea fisheries Protection Authority; whereas in Spain the process is performed centrally in Madrid. While limited additional information is available on the final destination of exported fishery products, the Netherlands, Denmark and Belgium export high quantities of brown shrimp to Morocco.

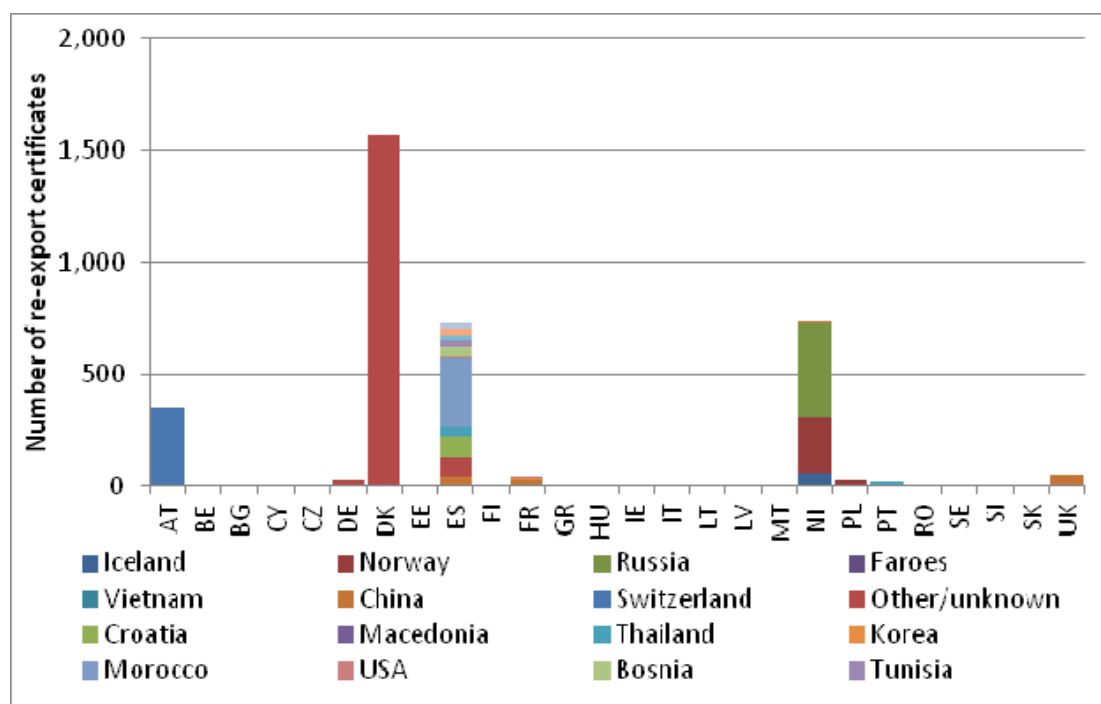
Member States currently validating the highest number of catch certificates for export have also developed an IT system to help monitor the process (e.g., Germany, France, the Netherlands, Spain, and the United Kingdom). In most cases, the IT system provides a simple electronic record that also helps Member States to determine whether catches associated with the validated catch certificates actually leave the EU (Germany, Netherlands and Spain).

Refusal to validate catch certificates have been made by four Member States (Denmark, Ireland, Netherlands and Spain). The majority of reasons for refusal were due to incomplete catch certificates. These were often returned and re-submitted with the full information for subsequent validation.

## Re-export

Pursuant to article 21(1) of the IUU Regulation, products due for re-exportation must be validated by a Member State national competent authority. Member State authorities are required to validate a re-export certificate if goods are imported and then exported again<sup>29</sup>.

An indication of the distribution of destination countries for re-export products is shown in Figure 9. There appears to be a geographical theme, with Russia and Norway the main destination country for products originally imported in Germany, Denmark and the Netherlands. Spain on the other hand appears to be a central distribution hub to a number of destination countries.



**Figure 9: Average number of re-export catch certificates validated for imported fishery products from Member States between 2010 and 2012 showing final destination country**

Data source: this study. No responses from HU, IT, MT, PT, RO and SK.

Information collected from Member State case study visits provides limited information on the processes and procedures to implement re-export controls for catch certificates under the IUU Regulation.

Netherlands took the view not to validate the certificate for re-exports and produced an alternative system that incorporated an alternative control document issuing a *splitting document*. The exporter generates the splitting document and submits it to the authorities so administrative costs remain manageable. The document provides precise details of the amount originally imported to the Netherlands and then re-exported and accompanies the catch certificate onwards to the next destination. The authorities record the respective amounts and cross reference the specific catch certificate reference number. The record is used as part of the cross checks performed for future re-exports to ensure that amount re-exported is within the balance remaining associated with that specific catch certificate. Furthermore, without the capability to cross check the global uptake of the total amount recorded in the original catch certificate the Netherlands authorities elected not to validate the splitting document.

Visits to the Member State case study countries show validating certificates for re-export can be a problematic issue as NCAs are unable to verify utilisation of the amount recorded in the original catch

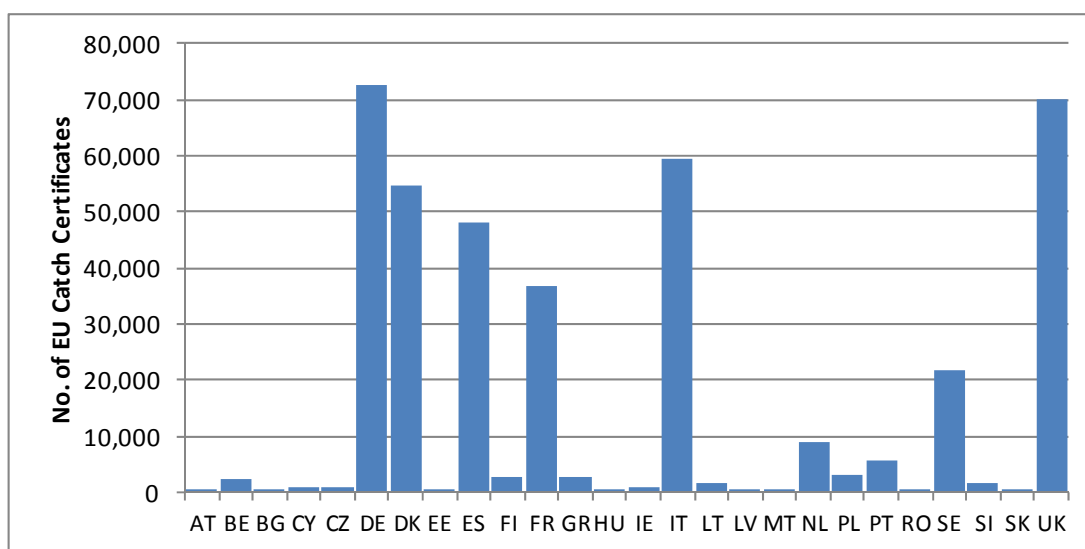
<sup>29</sup> Under Annex II and Annex IV of Commission Regulation (EC) No 1005/2008.

certificate. While Member States can differentiate the proportion of fishery product that has been imported and utilised domestically under the catch certificate, there is no global record of all catch certificates in distribution that enable Member States to account for total catch certificate utilisation. As such, Member States may be inadvertently supporting IUU activity by validating the certificate.

### 3.1.4.3 Verification of catch certificates (indirect importation)

Articles 12 and 14 of the IUU Regulation prohibit the importation of fishery products without a catch certificate that conforms to the requirements of the regulation. Article 16 requires that validated catch certificates of imported goods are submitted to the NCAs of Member States by the importer at least three working days before the estimated time of arrival at the place of entry into the territory of the EU.

Information obtained from this study show Germany, Denmark, Spain, France, Italy, Sweden and the UK verified the highest number of third country flag State catch certificates across the EU (Figure 10). Without details of the species, products and flags of the catching vessel, these trends are difficult to fully interpret. However, the relative risk of the consignment, whether landing or transhipment would be a factor that determines the level of verification requests.



**Figure 10: Average number of third country flag State catch certificates verified between 2010 and 2012 by each Member State**

Data source: this study.

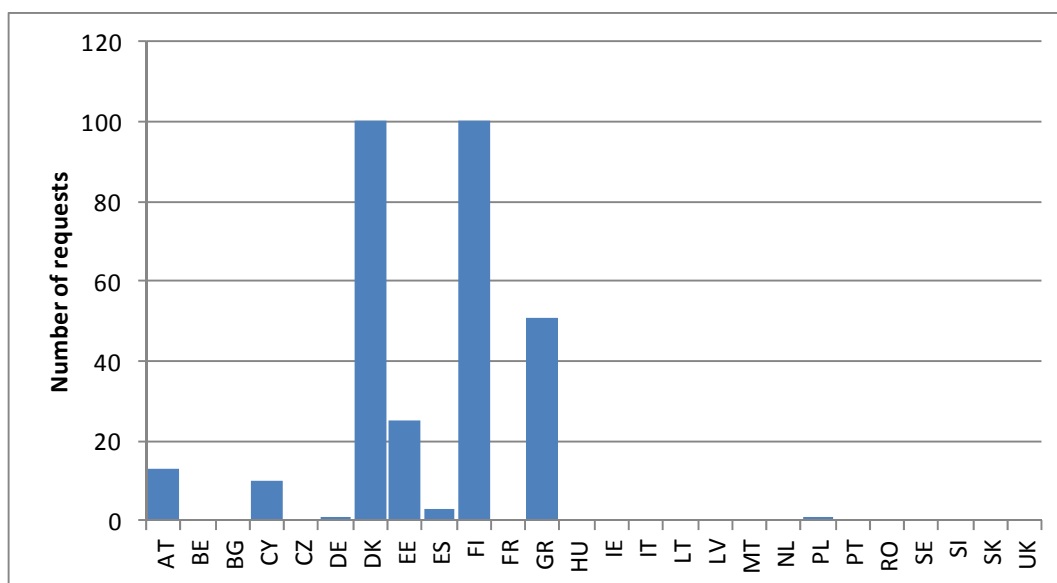
All the case study Member States apply a risk based management approach and perform 100% control document check for anomalies. Further investigation is required if there are serious errors that cannot be explained or easily deducted and require clarification from the flag State of the catching vessel.

### Verification requests by Member States to third countries

Pursuant with article 17(6)(a) of the IUU Regulation, the competent authorities of a Member State may request the assistance of the competent authorities of the flag State or of the third country where they have well-founded doubts as to the validity of the catch certificate, of statements contained therein and/or the compliance of the products with conservation and management measures. Unlike mutual assistance (section 5.2), verification requests are not undertaken by the Single Liaison Office, but through the national competent authority in each Member State.

The European Commission has established a Specimen Management System (SMS), which is a set of documents available to each Member State on various third country authority stamps and other information to support competent authorities of Member States to carry out all the necessary verifications deemed necessary to ensure that the provisions of the IUU Regulation are correctly applied. Member States have indicated this IT tool is often difficult to utilise and have therefore developed their own systems (see section 4.1).

Information from Member State biennial reports and returned questionnaires in this study provide an indication of the total number of verification requests made by each Member State to third countries between 2010 and 2012 (Figure 11).



**Figure 11: Total number of requests for verification generated by Member States to third countries 2010 and 2012**

Data source: biennial reports and this study. Note: PT indicated that they had made several requests but provided no further details.

The number of requests for verification by Member States to third countries shows that Denmark and Finland had the highest number, followed by Greece and Estonia. These observations do not correspond well with the number of catch certificates verified by each Member State (cf. Figure 10). It is noted that Member States that have well developed trade routes may not request many verifications from third countries, particularly where they are considered a low risk. Ireland for example, has a moderately high number of landings, although the majority of these are from Norwegian flagged vessels, which are considered a low risk.

### **Risk management and catch certificate verification (articles 16(1) and 17(3) of the IUU Regulation)**

Selected examples of risk based management systems implemented by the Member State case studies are presented below:

In Denmark IUU staff from DVFA checks the entries in the catch certificates against certain risk factors;

- A new country.
- Transshipments at sea.
- Authenticity of stamps on the catch certificate(s).

A checklist sheet is completed that provides a summary of the checks performed and signed by the officer responsible and attached to the pre-arrival documents.

Spain uses a risk assessment approach for verification of catch certificates which incorporates both EU and national criteria. The risk categories are as follows;

- Species declared are subject to special measures or recovery plans.
- Species and capture areas are subject to regulation by a Regional Fisheries Organisation.
- Information (e.g. via mutual assistance system) about alleged illegal fishing activity of a particular vessel or deficiencies in the control of a particular country.
- Species or sub-products of high commercial value are declared.
- Fishing zones in EEZ of West African countries are declared.
- Information relative to which vessel's beneficiary company could be involved in illegal fishing activities. Strategic considerations such as the type of product, zone of capture and compliance of the conservation measures of the RFMOs are used.

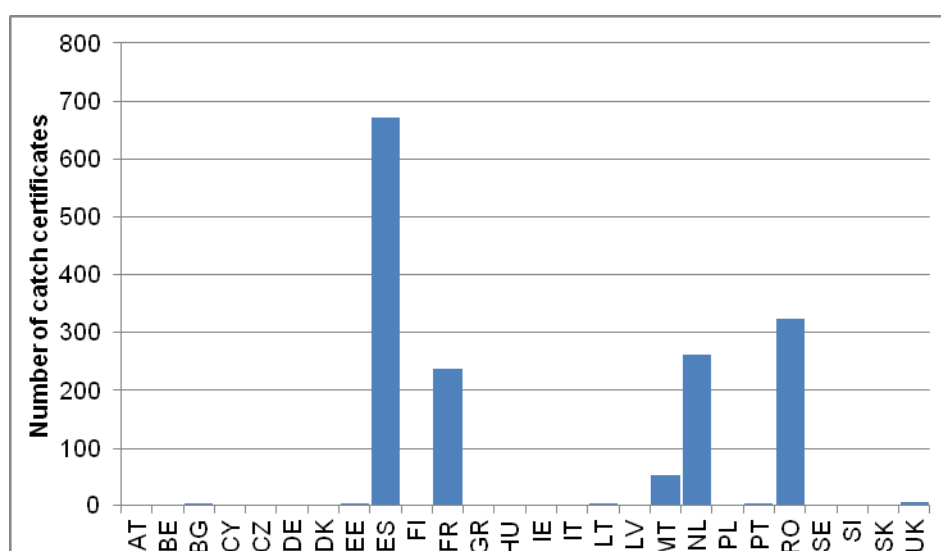
In France catch certificate verification is performed either prior to or after importation by customs. The risk assessment categorises consignments into either the green route or the black route (the red route is not used for fish products). Consignments under the green route are permitted to clear customs and are issued a customs clearance form. These consignments will be verified under the ex-post phase and currently constitute approximately 20% of the total number of consignments with a catch certificate. The consignments categorised under the black route then enter customs clearance procedures. For these black route consignments, the importer is required to present all control documents (under articles 14 and 19) to the customs officer.

Consultation with case study Member States reveal some views related to specific third country catch certificates. Bilateral agreements between the EU and specific third countries<sup>30</sup> have been established where the EU has been satisfied that the third country exhibits sufficient governance of its fleet including robust administrative systems for the traceability and certification of products. Some of these countries have implemented their own catch certificate system which can be accessed online by Member State authorities for verification purposes. Therefore imports from these third countries are considered to be a low risk and their respective catch certificates are deemed acceptable for IUU regulatory purposes. However, the case study Member States noted that the format and information available in these catch certificates are not always consistent with the EU catch certification version which creates specific problems with respect to cross checking e.g. the USA certificate does not show the vessel name.

### RFMO catch certificates

According to article 13 of the IUU Regulation, catch documents and any related documents, validated in conformity with the catch documentation schemes adopted by the regional fisheries management organisation must be accepted as catch certificates in respect of the fishery products from species to which such catch document schemes apply<sup>31</sup>.

Information collected through this study show that Spain, Romania, France, Netherlands and Malta process the highest number of catch certificates under an RFMO scheme (Figure 12). Of these, the most common RFMO catch certificate is for imported bluefin tuna (Figure 13).



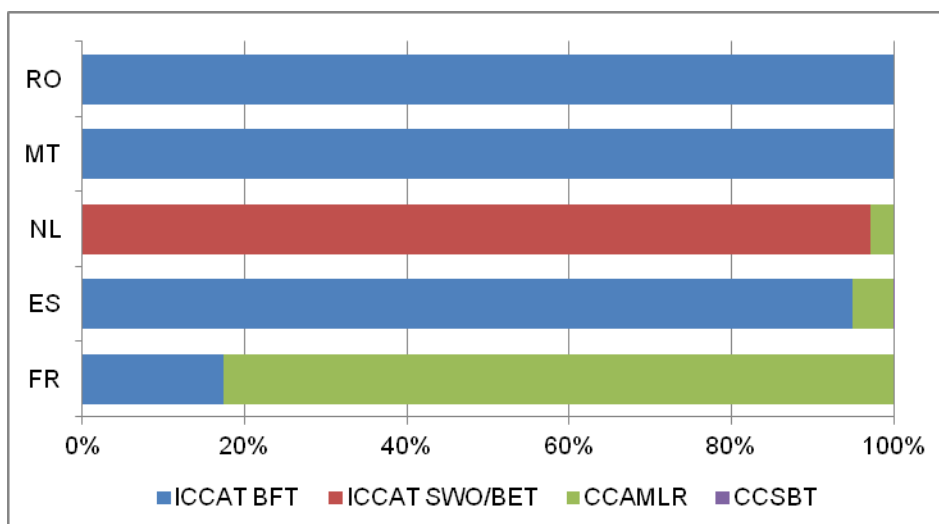
**Figure 12: Average number of catch certificates from recognised RFMOs presented for importation to Member State national authorities between 2010 and 2012**

Data source: current study.

Significant third country farm States for bluefin tuna production are Turkey and Tunisia and the data suggests that their preferred trade routes to the EU are through Romania, Spain and Malta respectively. In addition, there is clearly a demand for Patagonian toothfish (*Dissostichus* spp.) products in France and Spain and hence the higher proportion of CCAMLR catch certificates.

<sup>30</sup> Norway, Canada, Iceland, New Zealand, USA, Faroe Islands and South Africa.

<sup>31</sup> See Annex V of Regulation 1010/2009 for list of catch document scheme.

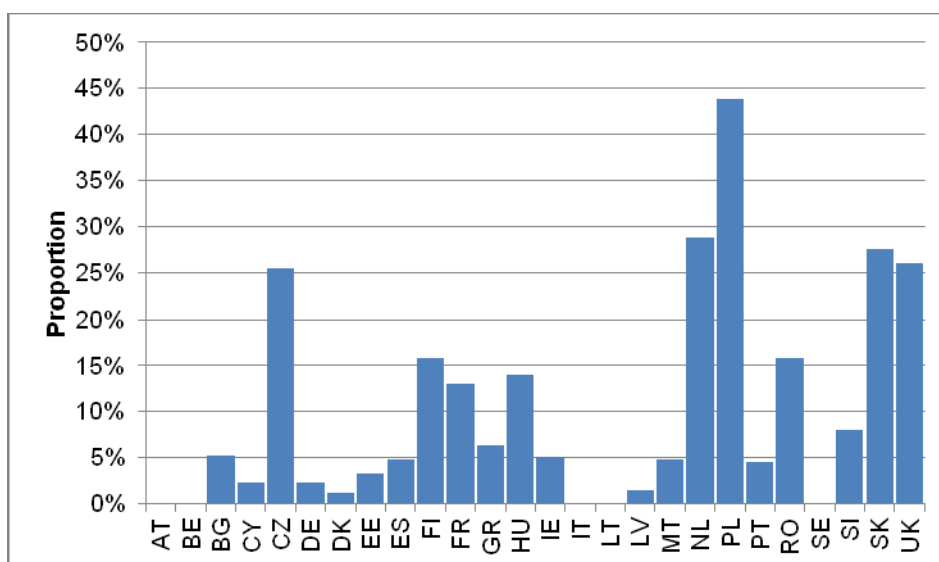


**Figure 13: Origin of catch certificates for the top 5 highest average number of RFMO catch certificates presented for importation to Member State national authorities between 2010 and 2012**

Data source: current study

### Processing Statements

Pursuant with article 14(2) of the IUU Regulation, fishery products constituting a single consignment that have been imported following processing in a third country other than the flag State, must be accompanied by a processing statement endorsed by that third country. The numbers of processing statements as a proportion of catch certificates accompanying imports is shown in Figure 14. The results show that Poland, Netherlands, Slovakia, UK and the Czech Republic have received the highest proportion of processing statements.



**Figure 14: Number of processing statements as proportion of catch certificates accompanied imports to Member State national authorities between 2010 and 2012.**

Data source: current study.

Although it is not possible from the data to determine which third country endorsed the processing statement, their significance is clear given the proportion of processing statements that accompany catch certificates (>25% for five Member States and between 10% and 15% for a further four Member States).

The case study Member States expressed concerns that the original catch certificates can be copied during processing in third countries, which is beyond their control and are attached to the processing

statements in order to launder products derived from IUU activity and integrate them into supply chains. In addition, knowledge of processing methodologies, conversion factors and the implications for weights entered into control documents is an essential tool to understand potential anomalies and which should be incorporated into risk management and catch certificate verification processes. It was not feasible to determine if and how this was achieved in the current study.

### **Practical implementation**

The case study involving Denmark included a visit to the port of Aarhus. There are three desk based staff allocated to inspection for IUU products at the BIP. The consultation with staff from DVFA covered the inspection process of a recent indirect importation of frozen Greenland halibut pieces from China that was checked against the requirements of article 14(2) of the IUU Regulation. Each consignment of fishery products from third countries must be notified to the IUU staff by the importer/agent prior to arrival. The notification is received by e-mail and is accompanied the relevant catch certificate and bill of lading. The electronic version of the catch certificate is accepted for imports from Norway, Faroe Islands, Iceland, Canada and Greenland.

Once again, according to DVFA, identity and physical checks performed by the BIP for veterinary checks are the equivalent of verifying the species, the respective amount and product type for IUU requirements.

Where doubts about a catch certificate remain and which cannot be resolved locally, the matter is referred to the SLO in the International Trade Division of DVFA Office in Glostrup for cross checking and quality assurance. In referring cases the IUU office must set out precisely what they consider to be incorrect or doubtful about the certificate. Some of these cases are resolved by the liaison officers without referral to the flag State. Cases which cannot be resolved by the liaison officers are referred to the flag State with specific/targeted questions to ensure that the issues arising with the catch certificate are properly addressed. In 2013 to date, seventy one (71) of the catch certificates referred by Aarhus staff to the SLO have been subject to a request for verification.

With respect of imports from Norway, Faroe Islands, Canada, Greenland and Iceland, a copy of certificates which pass the pre-arrival checks are stamped and returned electronically to the importer/agent. Original catch certificates from third countries are stamped on receipt by the IUU official and a copy forwarded to the importer / agent who filed the pre-arrival documents. The original certificate is retained by the IUU staff. For all consignments of fishery products subject to veterinary checks the IUU department sends a copy of the catch certificate stamped with a DVFA stamp plus a copy of the checklist form to the BIP office to file with control documents/checks performed for veterinary and health requirements (section).

During the visit to Felixstowe in the United Kingdom the Port Health Authority cross-check documented evidence provided for both IUU and veterinary requirements for fishery product consignments under indirect importation or those that are under transit following transshipment at another Member State (article 19(1), 19(3) and 19(4) of the IUU Regulation). Once veterinary checks have been satisfactorily completed the fishery products are then subjected to a 10 step document check specifically in order to verify the contents of the catch certificate. Detailed guidelines and a specific coversheet/checklist have been drawn up to assist staff with these document checks. There is a charge of £40 per consignment levied on importers for this verification service. A legal provision for raising this charge is contained in the SI No. 3391 of 2009.

During this process the importer may be contacted for clarification or additional information. In addition, officers may also seek assistance by way of verification from the flag State concerned. This is a formal process and is carried out through the UK SLO at the MMO based in London.

In carrying out verification checks on catch certificates the risk based approach developed by the MMO is adhered to. Unlike in the case of veterinary/health checks, where information on conforming and non-conforming consignments is inputted to the TRACES system, there is no similar system available in the case of consignments rejected or accepted under the IUU Regulation. Alternatively the MMO are informed.

Spain has established a procedure for verification of catch certificates for imports and indirect importation and performed by the *Secretaria General de Pesca*. Import requests are processed via the Internet using the IT application SIGCPI (Integrated System for the Management and Control of Illegal Fishing). The following verifications are compulsory:

- General: i) Control of documents (information cross-check of catch certificates, health certificates, shipping document, declarations made by the importer). This control is done in 100% of import applications and 100% of catch certificates d; ii) Data cross-check: of the Validating authority and issuing country of the catch certificate and its inclusion in the list of countries reported to the Commission (article 20 of the IUU Regulation) as well as cross-check of vessel's data that appear on the catch certificate with the IUU vessel lists of the *Secretaria General de Pesca* (this cross-check is automated in the application SIGCPI).
- Specific (100% when applicable): i) Areas and species regulated by regional fisheries organisations (including checking the inclusion of the vessels in the records of vessels authorized to fish in the areas established by regional fisheries organizations, and compliance of the conservation and management measures / checks and monitoring of quotas consumption allocated by the RFMOs). It includes verification request to the flag authorities and, where appropriate, to the authorities of the State of processing. This request for verification may include VMS data request, copies of fishing and transshipment licenses, copies of fishing and / or navigation logbooks; ii) Vessels for which an alert is received or listed as suspicious in the IUU vessel list of the *Secretaria General de Pesca*. Entails a verification request to the flag authorities. This request for verification may include VMS data request, copies of fishing and transshipment licenses, copies of fishing and / or navigation logbooks.

Other verifications implemented by Spain include:

- Physical control by inspecting the means of transport, including the landings in ports and of the products and storage locations.
- Verification of signatures and names of authorities in the application SMS.
- Sampling for DNA analysis for identification of species.
- Verification of the authenticity of the catch certificates.
- Verification requests to the flag States and/or to the authorities of the States of processing.
- Assistance request to the authorities of the coastal states.
- Checking of the movements of the container/ flights.

In France catch certificate verification is performed either prior to or after importation/clearance by customs. There is a unit in the customs administration called Ex Post 1 where post clearance verification checks are carried out on all green routed customs declarations. This ensures 100% of catch certificates are verified but at different times depending on the route selected. An IT tool 'TRIDENT' is used to identify the green routed customs declarations for post clearance verification. The agents /operators are contacted by e-mail to submit all control documents. The verification checks undertaken are identical to the document checks undertaken at the customs clearance procedure. The post clearance verification is carried out within two months of the product being imported.

In the Netherlands, the customs authority (*Douane*) is responsible for screening catch certificates. A series of checks are performed by specially trained officers who work closely with the Dutch Food and Consumer Products Safety Authority (NVWA) which is the competent authority for the IUU Regulation. The checks include the total amount recorded in the catch certificate against entries in the processing statement, CVED, and health certificate; the product code, and genuineness of the authorisation stamps and signature; and the consistency of the logistical details (seals, consignment/bill of lading and container reference numbers). The serial numbers of the various documents are also cross checked for agreement. If anomalies are discovered the customs staff contact the SLO.

For minor issues the contact may be via a simple phone call for advice/clarification. Where the issues are more serious an e-mail with scanned copies of the catch certificate(s) and associated document is sent to the SLO and veterinary authorities for further advice. This may lead to further investigation/inspection including a request of verification to third countries involved in the supply chain from the point of capture and processing. The SLO has, in consultation with the operational enforcement unit, the final decision whether to accept or reject the catch certificate. An example was demonstrated by Netherlands customs officers in Rotterdam of a Faroese flagged vessel exporting to China for processing destined for indirect import into the EU at the Spanish border.

The Netherlands SLO has also implemented a process that selects a single third country every month for analysis of their catch certificates and the respective cases. All documentation is reviewed for trends or patterns of anomalies or points of interest. The findings are exchanged with other Member



States to ascertain the validity of the results. The process contributes to maintaining the relevance of the risk based approach as well as providing quality control on day-to-day SOPs.

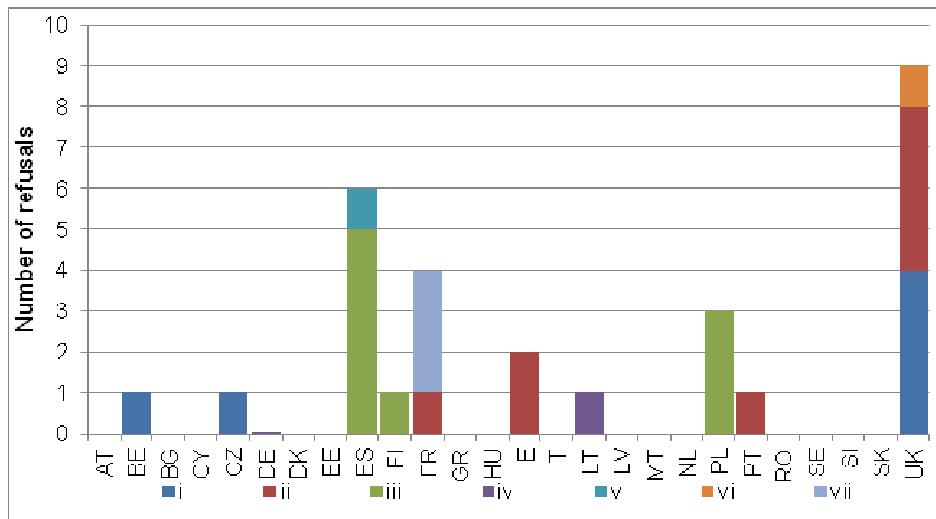
In Poland, importers provide a validated catch certificate to the relevant Regional Sea Fisheries Inspectorates (RSFIs). During consultations with officers from RSFIs the potential problems associated with different weights entered in control documents were discussed in detail and reproduced below:

- For products that have been caught by another flag State and processed in a third country, it was stressed that the original catch certificates can be copied in the processing third countries beyond any control and attached to the processing statements. The actual amount of product entering the processing third country may exceed the amount recorded in the original catch certificate. So, fraudulent duplication of the catch certificate provides an opportunity to enter products derived from IUU activity into the EU. A global catch certificate database was offered as the solution to prevent Member States from inadvertently laundering IUU products.
- Catch certificates (and logbooks) record the live weight. But the catch, particularly if demersal or whitefish species is normally subject to some processing on board e.g. gutted, head and tails removed etc. Furthermore, carrier vessels, health certificates and processing statements refer to the actual weight of the product. These are all NET figures. Therefore in order to perform the verification process accurately, knowledge of the type of processing and plus a representative conversion factor is essential to determine the relative veracity of weights recorded in the control documents.
  - For example, the total processed weight of the product, also recorded in the health certificate, refers to the net weight of the final product following secondary processing performed in the processing State.
    - The conversion factors for secondary processing filleting, skinning and trimming ashore, (for which there are no conversion factors in EU) are based on their at-sea operational experience.
    - This processed weight can be more than the amount of the catch processed. This is a result of additional processing procedures that involve glazing which can raise the total weight of the processed product by 35%.
  - Therefore officers analyse the values and apply realistic conversion factors (based on values used within to EU and their operational experience) in order to determine the veracity of the figures.

The approach used by Poland has been successfully applied to detect the use of incorrect product codes (used to avoid a higher import duty).

### **Refusal of Imports**

Under article 18 of the IUU Regulation, Member States should refuse imports if the completion or accuracy of the information contained in the catch certificate is inadequate or incorrect or there is a lack of evidence from the flag state following a request of verification. Some of the main reasons for refusal of imports include 'incorrect and incomplete completion of the catch certificate' (Figure 15).



**Figure 15: Number of refusals of imports by each Member State for the following reasons: (i) no CC submitted (ii) incorrect species (iii) invalidated CC (iv) incomplete CC (v) non-compliant with Art. 14(1) or (2) (vi) IUU vessel (vii) non-compliant with Art. 18(2)**

Data source: Member State biennial reports.

In 2012, the results from returned questionnaires indicated that Spain refused landing of tuna from a fishing vessel operating within the ICCAT regulatory area without authorisation. The sanction resulted in confiscation of fishing gear.

The United Kingdom rejected products between 2012 and 2013 as follows:

- In 2012, following the 59 formal article 17(6) verifications the MMO IUU team refused the importation of three consignments of fishery products under the IUU Regulation. The flag states were Spain, Russia and Vietnam.
- So far, in 2013, the MMO IUU team has refused the importation of one consignment from the Korean flag. In 2013 as of the 23rd July there are products represented by 97 Ghanaian catch certificates suspended from import at the UK border pending verifications and further enquiries.
- The number of IUU rejections by Port Health Officers at UK borders was as follows:
  - In 2012 Felixstowe rejected six consignments. The flag states were Ghana, Spain, Sri Lanka and Morocco. Main reasons for rejection were missing Annex IV statements from the processing state or missing catch certificates from the flag state.
  - In the first quarter of 2013 a further three IUU rejection notices were served by Felixstowe Port Health Authority. In these cases the exporting countries are India, China and Korea. These rejections were directly related to the IUU status of the imports.
- Port Health officers also often reject the goods based on failures in respect of other longer standing regulations, such as their examination of Health Certificates and comparisons with the IUU regime and other documentation.

Within the Netherlands, after a refusal, the owner requests the SLO to return the consignment, or send it to another third country (in that case a declaration of acceptance by that country is required). Customs receive all necessary information on the refused (part of the) consignment (GDB number(s), catch certificate number(s), container number(s), weight, number of cartons/pieces, transport documents). The SLO has checked the information beforehand. When the owner wants to ship the consignment they request permission for transportation from customs. After the consignment has left, a declaration by customs will be sent to the owner/importer that the consignment is no longer in the Customs area. This declaration will be forwarded by the owner/importer to the SLO.

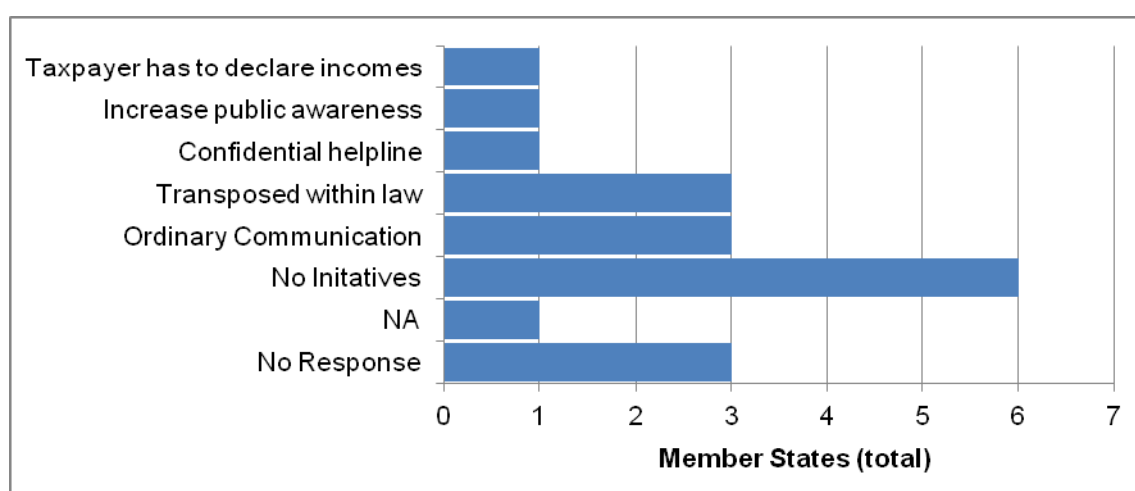
### 3.1.5 EU Nationals

The issue of EU Nationals is addressed in Chapter VIII of the IUU Regulation. In particular, nationals of the EU must neither support nor engage in IUU activities and the Member States concerned shall cooperate with the relevant third country in order to identify national supporting or engraining in IUU activities. The Member State concerned must take appropriate measures against its nationals engaging in or supporting IUU activities under any flag and even if no trade with the EU is concerned.

#### 3.1.5.1 Prevention and sanction

In accordance to article 40(1) of the IUU Regulation, Member States must encourage nationals to notify any information pertaining to legal, beneficial or financial interests of, or control of, fishing vessels flagged to a third country where they hold details of the vessels concerned.

Member State were asked to describe processes and procedures they use to implement article 40(1) of the IUU Regulation described above (Figure 16). The results show that 6 out of 16 Member States have not established any specific measures, while the majority of responses focused on having legal recourse to tackle the issue and communication and/or public awareness programmes.



**Figure 16: Processes and procedures Member States use to encourage nationals to notify NCAs about interests in IUU activity**

Data source: Member State biennial reports.

Pursuant with article 40(2) of the IUU Regulation, Member States are required to ensure that nationals do not trade with operators involved in IUU activity. Information obtained from questionnaires showed a similar response to that above, focusing on public awareness. Poland specifically related the importance of public awareness in the absence of concrete legal powers.

The United Kingdom elaborated further on both issues: the information provided is shared with national and international competent authorities. The development of a global network capable which has jurisdiction to investigate interests of individuals was also seen as the way forward as evidenced by Interpol's operation Scale. The UK also made the point that information received can also serve a secondary purpose to protect interests of responsible operators.

Article 40(4) of the IUU Regulation requires Member States to take measures to obtain information on arrangements between nationals and reflagging vessels to third country. The majority of Member States that responded do not have specific statutory powers but seek to encourage reporting and use information and intelligence received to determine if and the level of beneficial ownership of third country vessels or involvement in their operations. Vessel registration and monitoring of registration lists were mentioned by five Member States. Incidentally a global register of fishing vessels e.g. by the IMO, was recommended as a potential solution by all stakeholders consulted.

#### Austria

Austria is a land-locked country and therefore does not have a fishing fleet, nor do they implement any of the sanctions or infringements apart from allocating the authority to refuse importation of fishery products. No further information was provided.

## **Belgium**

No measures have been implemented in respect of the IUU Regulation apart from those related to serious infringements. Repeated serious infringement incurs double the fines or sanctions as a general rule. The level of penalty imposed by a judge follows criminal procedures (article 44(3) of the IUU Regulation). Fisheries authorities stated that the maximum fine applicable was EUR 100 000 and that other sanction can also apply e.g. vessels or economic benefits seized.

## **Bulgaria**

NAFA are the competent authority and there have been significant legislative advances since 2012 with increased sanctions applicable and a “point system” introduced for vessels and captains (article 44). Although no specific procedures have been introduced to ensure that articles 40(1) and 40(2) are complied with they have issued “certificates” for voluntary co-operators that have encouraged cooperation with national fishermen, NGOs and producer organisations to report IUU activities. Bulgaria has not introduced measures to obtain information on reflagging of vessels (article 40(4)).

## **Cyprus**

DFMR are responsible for implementing sanctions and there has been a “Ministerial Council Act” adopting the Regulation. Responses to the questionnaires show that no specific procedures had been established for article 40(1). However, Cypriot authorities implement article 40(1), evident from the inspections and detection of infringements. The Cypriot authorities also reported that regular checks within a “traceability framework” are used to ensure that nationals do not engage in trade with IUU operators (article 40(2)). Cyprus has a vessel register which is monitored to prevent reflagging of vessels (article 40(4)) to third countries and steps to encourage the enforcement of article 44 include a control database to monitor repeat infringements however no detail concerning the nature of sanctions was forthcoming.

## **Czech Republic**

The scope of competence is defined in the Act No. 17/2012 Coll., on the Customs Administration of the Czech Republic. The Czech Republic authorities repeatedly cited that as it was landlocked country that questions about sanctions and infringements were irrelevant apart from those related to non-cooperating third countries; however they confirmed that the customs authority had the jurisdiction to refuse imports (article 18).

The Ministry of Agriculture of the Czech Republic has been designated as the single liaison office and is responsible for imposing sanctions for serious infringements. To ensure the Ministry has all the necessary information needed to decide whether or not to impose sanctions they are informed by customs authorities on each case of the refusal of importation.

## **Denmark**

Agrifish is responsible for monitoring nationals involved in IUU and to implement sanctions in respect to the IUU Regulations. The DVFA is responsible for making decisions on the consignments following the checks including decisions on refusal of import under article 18. Agrifish has ensured that it has the powers to prosecute nationals engaged in trade with operators involved in IUU and repeated fisheries infringements are processed using criminal procedures (article 44(3)). Currently, there are no specific methods to encourage nationals neither to notify authorities of third countries vessels engaged in IUU activity nor to obtain information about reflagging of fishing vessels.

## **Estonia**

The Ministry of Environment (fisheries authority) is responsible for reporting nationals involved in IUU to the Commission. The Estonian Fishing Act (which came into force 23<sup>rd</sup> May 2008) appears to provide provisions for national's involvement with IUU operators in addition to setting sanctions; apart from article 40(4) covering nationals reflagging vessels to third countries. In such instances the Estonian authorities refer to EU regulations.

## **Finland**

In general, imposing sanctions relating to the IUU Regulation in Finland appears to be constrained by a lack of resources and nationals engaging in IUU are not reported to the commission. Awareness of IUU in the public domain has been encouraged by the Finnish authorities and future plans include alterations in respect to vessel registration (articles 40(1) and 40(2)) and amendments to national law for penalties pursuant to article 44 (see section below).

## **France**

The responsibility for reporting nationals engaged in IUU activities to the Commission (article 39(4)) lies with both the French fisheries and customs authorities. Nationals have been encouraged to report IUU activity by sending letters to ship owners however no specific actions appear to discourage national trading with IUU operators (article 40(2)). Specific penalties for repeated infringements are administrative (article 44(2) – see below) and initial penalties (of 5 times the product value) are doubled, these changes were written into national legislation (Rural Code and marine fisheries).

## **Germany**

The fisheries authority *Bundesanstalt für Landwirtschaft und Ernährung* (BLE), is responsible for reporting nationals involved in IUU activity to the Commission. On refusals (article 18), none have been made only suspensions, but the authority to refuse importations also lies with BLE. In general the provision for articles 40(1), 40(2), 40(4) and 44 have been incorporated into national legislation according to biennial report. In addition, BLE has the authority to audit economic operators.

## **Greece**

The fisheries authority reports nationals involved in IUU to the Commission. Greece appears to have implemented provisions for sanctions into the national law, however it is uncertain as to the exact methodology of this application. Specific reference was made to provisioning within national legislation for administrative sanctions for repeated fisheries infringements (article 44) and traceability is used to discourage trade between nationals and IUU operators (article 40(2)).

## **Hungary**

Hungary does not engage in sea fishing nor are any fishing vessels flagged to Hungary. Questions pertaining to sanctions and infringements were therefore not considered relevant.

## **Ireland**

The Sea Fisheries authority is the designated authority for reporting nationals involved in IUU and nationals can report suspected IUU fishing via “direct communication” and a specific helpline. In order to prevent trade of nationals with IUU operators all importations are verified. The IUU Regulation is written into primary legislation and sanctions are determined by the court. Re-sale of vessels is subject to ministerial sanction in order to monitor and reduce re-flagging of vessels (article 40(4)). Moving forwards, Ireland is hoping to take further actions such as implementing penalties into primary legislation to reduce time associated with sanctions.

## **Italy**

Italy reports IUU fishing by nationals to the Commission via its fisheries department. It has increased its levels of administrative sanctions in accordance with article 44. Infringements of the IUU Regulation are punishable by seizures of economic benefits including fishing vessels and fish and a point system is also employed. Details on the other articles were not available.

## **Latvia**

The Marine and Inland Waters Administration is the designated authority for reporting IUU activity by nationals to the Commission. Responses stated that IUU Regulation has been incorporated into Latvian national law (with reference to articles 39, 40(1) and 44). However, administrative delays in relation to article 44 have meant that Latvia is not fully compliant with the IUU Regulation. Information exchange and the use of records of vessel registration are used in respect to re-flagging of national vessels (article 40(4)).

## **Lithuania**

The Fisheries Service under the Ministry of Agriculture is responsible for recording nationals engaging in IUU activity. “Ordinary communication” is used to communicate with nationals and various training activities have encouraged authorities and economic operators to report suspected IUU activity (articles 40(1) and 40(2)). National administrative sanctions are applicable for repeated infringements and these are still currently being adapted to meet the requirements of the IUU Regulation.

## **Luxembourg**

Luxembourg does not engage in sea fishing nor does it own any fishing vessels engaged in sea fishing therefore questions pertaining to sanctions and infringements were not considered relevant.

## **Malta**

Responses did not clarify explicitly whether EU regulation had been implemented and several national legislative “Fisheries conservation and management act” and “Adopted Enforcement of Sea Fisheries Convention Order”.

## **Netherlands**

IUU Regulation and sanctions are implemented broadly by fisheries authorities who also report activities to the EU commission; however no specific procedures appear to have been implemented in respect to articles 40(1), 40(2), 40(4) and 44. For example, although there is a chance that national vessels may have been reflagged no information has been obtained concerning this.

## **Poland**

Conforming to the IUU Regulation is subject to the implementation of the new “Fisheries Act” in Poland and currently the designated authorities (Fisheries) have no legal possibilities to enforce sanctions involving nationals trading with IUU operators (article 40(2)) nor to obtain information on the reflagging of vessels (article 40(4)). Fisheries authorities encourage nationals to report IUU through meetings and workshops. National legislation dictates that the maximum fine is approximately £22,350 (article 44 – see below).

## **Portugal**

The responses given with regards to infringements and sanctions requires clarification. However, it appears that monitoring of IUU activity has increased and that various tactics are used to encourage compliance including operational programmes investigating the sale of vessels (article 40(4)) and also to encourage nationals to report information on IUU (article 40(4)). Overall, limited information was available.

## **Romania**

Responses to the biennial report showed that Romania does not have any notified authorities for reporting national involved in IUU fishing to the commission. In general, no information was received for Romania as the questions were deemed not applicable.

## **Slovakia**

No authority appears to have been designated for reporting nationals involved in IUU to the commissions and Slovakia has not implemented provisions in relation to articles 39(4) and 40(1). Sanctions are available for repeat infringements in line with current EU regulations. Limited information was available.

## **Slovenia**

Customs services are ultimately responsible for reporting the actions of nationals (article 39.4) to the Commission. The response indicated that there are no specific measures in place regarding nationals and IUU under articles 40(2) to 40(4). Fines are foreseen by national regulation as it is perceived there is little need to enforce these measures.

No processes or procedures are required in respect to article 40(1) as it is not applicable, nor in respect to article 40(4) due to the geographical range of fishing activities. Repeat infringements are subject to higher fines however it is uncertain how these are set or applied (article 44). The biennial report stated that provisions were being developed for administrative sanctions.

## **Spain**

In 2002, the Government introduced a Royal Decree 1134/2002, on sanctions related to fisheries. This Royal Decree establishes a number of obligations: Those nationals who choose to work on a third country vessel should notify MAGRAMA, prior to enrolment including the vessels registration details. As such a national can be prevented from involvement with vessels engaged in IUU activity. Similarly, Spain stated their support for the implementation of mechanisms to identify all national as well as those of all operators involved in the exploitation or ownership of fishing vessels included in the EU IUU list.

In addition the Secretary General of Fisheries has recently established an intelligence team to assess groups business and its possible connection to IUU fishing. Spain has put in that stipulate that minor offenses will be punished with warning or a fine of 60 to 600 Euros, serious infringements with a fine

of 601 to 60k Euros, and very serious infringements with a fine of Euros 60k to 300k pursuant to article 40.3. Additional sanctions for serious infringements (article 44(2) – see below) include confiscation of fishing gear; confiscation of proceeds or property obtained in the by the process of the offenses; suspension, withdrawal or non-renewal of the fishing authorisations and the suspension of eligibility for loans, grants or aid for up to five years. For article 40(1) the Secretary General of Fisheries is considering analysing fiscal information in order to streamline and improve the actual administration the process should reformed. The reform will include, among others, the following issues: Introduce a new article explicitly on the disciplinary procedure regarding fishing by clearly delineating assumptions and conditions, including defining the jurisdiction and IUU offences detected in the territory or territorial waters, regardless of the nationality of the offender or the place where they were committed. This is all in accordance with the IUU Regulation.

Measures taken to obtain information on the existence of any arrangement for re-flagging vessels (article 40(4)) require the Directorate General of Merchant Marine to seek information from the Secretary General of Fisheries before authorizing the action. Accordingly, the Secretary General of Fisheries is informed at all times of the re-flagging activities.

### **Sweden**

The Swedish fisheries authorities are in the process of implementing national procedures that conform to the IUU Regulation for articles 40(1), 40(2), 40(4) and 44(2) (see below). The authorities have acted on information received from the Commission on Swedish nationals engaged in IUU activity. However there appears to be no designated procedures for reporting this information to the commission.

### **United Kingdom**

The UK relies on awareness and outreach programmes and /or initiatives to prevent nationals from engaging in IUU activity under article 40(2). Nationals are encouraged to pass on information as it also serves to a secondary purpose to protect interests of responsible operators. Information is also shared with national and international competent authorities that are capable of or have jurisdiction to investigate interests of individuals e.g. SOCA, Interpol respectively etc. in addition to the development of global network to assist screening individuals interests if warranted (intelligence lead). In addition, the UK encourages and receives information about the beneficial ownership of third country vessels or involvement in their operations (article 40(4)) but have no specific statutory powers

Fisheries authorities report nationals involved in IUU to the Commission. Unlimited fines are available for repeat infringements and at the discretion of Crown Court (criminal) procedures (articles 44(2) and 44(3)). Advice is provided to prosecution on legislation and requirements by the SLO

With regards to sanctions, while the BIP can impose sanctions for breaches of the catch certificate process, responsibility for audits of operators' activities and for criminal investigations generally is with the MMO.

#### **3.1.6 Sanctions and Accompanying Sanctions**

The issue of sanctions and accompanying sanctions is addressed in detail in Chapter IX of the IUU Regulation. In particular the Member States must ensure that 'serious infringements' committed by natural or legal persons are punishable by 'effective, proportionate and dissuasive administrative sanctions' and/or 'dissuasive criminal sanctions'. 'Serious infringements' are defined to include activities considered to constitute IUU fishing, the conduct of business directly connected to IUU fishing (including trading/importing fishery products) and the falsification of documents referred to in the IUU Regulation.

In particular a maximum sanction of at least five times the value of the fishery products 'obtained by committing the serious offence' must be imposed although in the case of a repeat of such an infringement within five years the sanction must be at least eight times the value of the products.

Article 44 of the IUU Regulation sets out the provisions available to Member States in response to serious infringements perpetrated by individuals. Feedback from Member States indicates that repeat infringements (within five years) are punishable by a range of penalties. In the case of repeat offences, fines between six and ten times the product value were applied, e.g. in Belgium, Bulgaria, Estonia, France, Slovenia and the UK. Other countries apply a points system for serious infringements e.g. UK and Bulgaria. In some cases, electronic recording of infringements is being introduced in the near future. There were a few countries where no legal measures had been

implemented and as such no such fines could be enforced, as is the case in the Czech Republic, Finland, Poland and Sweden.

The case study Member States report a lack of transparency with regards to the level of sanctions imposed by other Member States and third countries which dilutes the effectiveness of the regulation. They all recognise that there are issues of authority and the independence of judiciaries and that it is not compulsory for third countries to share their sanctioning system with the Commission. For example, when cases are brought to court, the NCAs provide technical advice and set out the provision for sanctions in the regulation (under articles 44 to 46 of the IUU Regulation) but the final decision rests on the independent determination of the court.

Of greater concern is the transparency on the level of sanctions for third countries. Overall equitable application of sanctions by Member States and third countries is perceived as important as harmonised and standardised control and inspection prevents border shopping and redistribution of IUU to weaker countries.

Denmark noted that information on sanctions could be used as a factor for a risk based management; and according to Spain one of the biggest IUU challenges remaining is to achieve a uniform application of sanctions at Member State level. Germany noted that the sanctions recommended in the IUU Regulation only set a maximum fine, not a minimum.

### **3.1.7 Mutual Assistance**

As indicated within section 3.1.1.2, pursuant to article 39(1) of Regulation 1010/2009, each Member State must designate a single liaison office (SLO) that forms the single authority of communication with the Commission and other Member States to implement the IUU Regulation. In addition, article 39(2) of Regulation 1010/2009 states that this information must be communicated to the European Commission and other Members States and kept up to date. Further to this, the Commission must publish and update the list of single liaison offices in the *Official Journal of the European Union* (Art. 39(3) of Commission Regulation 1010/2009).

To date, while information on Member State national competent authorities is available no specific details on Member States single liaison offices has been published. This is partly due to the contact information containing personal email addresses rather than generic mailboxes<sup>32</sup>. Whilst personal email contacts facilitate greater efficiency in the transfer of information, this may be considered less sustainable than utilising a generic mailbox, particularly when personnel leave. Under these circumstances, it may be considered best practice for Member States to allocate a generic mailbox to contact the SLO, such as that provided by the UK authorities for example.

## **3.2 Training**

With the introduction of the EU catch certification scheme, new approaches were required to control, verify and validate consignments of fishery products from both Member States and third countries. To assist in the implementation of these measures and promote a uniform and effective application of the processes and procedures, the European Fisheries Control Agency (EFCA) is assisting the Commission to provide the training needs of national authorities through a series of workshops and seminars.

This section provides an overview of the training provided by EFCA and that developed at a national level to support implementation of the IUU Regulation.

### **3.2.1 European Fisheries Control Agency (EFCA)**

The EFCA is an EU body that was established in 2005 under Council Regulation (EC) No 768/2005<sup>33</sup>, and became operational from 2007 onwards. The primary role of the EFCA is to ensure uniform and

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<sup>32</sup> Personal communication, DG MARE (3.02.2014)

<sup>33</sup> Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy (OJ L 128, 21.5.2005, p. 1).



effective application of the rules of the Common Fisheries Policy by the Member States by organising operational cooperation between Member States, assisting the EU and Member States in their relations with third countries and Regional Fisheries Management Organisations (RFMOs) and ensuring dialogue with stakeholders, in particular through the Regional Advisory Councils (RACs).

Although the IUU Regulation does not explicitly confer functions in the EFCA (although the role of the EFCA in assisting the Commission to identify vessels engaged in IUU fishing is recognised in the recitals), in 2008 a specific IUU desk was established within EFCA to address tasks relating to the implementation of the IUU Regulation. Preparatory work began in 2009 and operational activities started in 2010 with the entry into force of the IUU Regulation.

Information about the specific role the EFCA now plays with respect to the IUU Regulation was obtained through a semi-structured questionnaire and followed up through a telephone conference call. Supporting information was also provided on the composition and development of EFCA IUU training activities since 2010 to present.

Training on the IUU Regulation was provided to the EFCA IUU desk by DG MARE in January 2010. This was followed by a strategic decision by the Agency to recruit individuals that were involved in drafting the regulation. As such, the Agency gained competence in the regulation with immediate effect, providing it with the means to perform its role as a facilitator, particularly developing Member State capacity.

Since the introduction of the IUU Regulation, the Agency provides assistance to the Commission in third country evaluations and delivery of training workshops for national Member State authorities. These tasks were transferred to EFCA under Commission Decision 2009/988/EU<sup>34</sup>. EFCA does not however, provide assistance on the legal framework, which would have to be addressed directly to the EU Commission, DG MARE. In line with its mandate and objectives, EFCA provides training and workshops for officials of all Member States involved in the practical implementation of the IUU Regulation. To date, these fall within the following three main pillars:

- i. IUU workshops and seminars conducted for all Member States at EFCA premises in Vigo.
- ii. Support IUU trainings and meetings organised by Member States at a national level.
- iii. Regional EFCA IUU workshops for smaller groups of Member States.

Through these EFCA training events, the principal objectives are to;

- Provide guidance on technical issues with regard to control, inspection and verification of IUU catch certificates and thus to support a harmonized and uniform implementation of the IUU Regulation;
- Provide a platform for the exchange of experiences and the development of best practices;
- Establish a network of administrative cooperation and exchange of information among the Member States;
- Promote cooperation between all authorities involved at national level (Fisheries, Customs, Health, Port authorities).

The first training workshops started in 2010 following entry into force of the IUU Regulation. These were open to participants from all national authorities involved in the implementation of the IUU Regulation. In total, five workshops were held in 2010 by EFCA in Vigo for all Member States (113 participants). The topics addressed were mainly theoretical, focusing on the legal provisions within the Regulation.

Subsequent workshops, with increased practical experience gained by Member States, aimed on making the training orientated around more practical and operational issues, and focussing on the

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<sup>34</sup> Commission Decision of 18 December 2009 designating the Community Fisheries Control Agency as the body to carry out certain tasks under Council Regulation (EC) No 1005/2008 (notified under document C(2009) 10155) (OJ L 338, 19.12.2009, p. 104).

real cases and examples. This also facilitated discussion and exchange of experiences and best practices.

From the second half of 2010, the structure of training events changed such that participants were split into two groups to allow more than two or three representatives from each Member State to attend each meeting. Since July 2013, Croatia has participated in IUU workshops held in Vigo.

EFCA together with DG MARE provide an opportunity to participate in training events organised by Member States at a national level. These started in 2010 with IUU workshops held in Cyprus, Lithuania and Poland and continued in 2011, with EFCA attending one workshop in Malta. Later in 2012 a regional IUU workshop was organised by the UK, and a national Fisheries Control Seminar was organized by Germany. More recently, in 2013 EFCA had attended national IUU seminars in the Netherlands, Croatia and Denmark.

Since 2013, a regional approach has been established to allow for very specific training needs and issues relevant to smaller groups of Member States. Overall the process is driven by Member States and their needs, resulting in bespoke training programmes. In 2013, three regional workshops were organized by EFCA in Croatia, Sweden and Latvia, to which in total 19 countries were invited.

The agendas for all trainings and workshops are always established in close cooperation with DG MARE, and taking into account the input and training needs discovered in the Fisheries Control Experts IUU *ad hoc* group meetings in Brussels. The Member States are invited to provide continuous feedback to EFCA on any specific training need or issues that should be addressed. Member States are also requested to actively participate in the sessions by giving short country presentations on the state of play in their countries, recent experiences, interesting cases, observations etc.

All participants attending the EFCA trainings are expected to act as a multiplier at a national level and to distribute the information and documents gained in the sessions as wide as possible among the people involved in the subject.

In addition to training, EFCA under the provision of article 1(b) of Commission Decision 2009/988/EU, may also provide support for evaluation missions to third countries<sup>35</sup>. No further information was provided on these activities at this time.

In total, all training received was widely reported to be effective, with only 5% (one Member State) reporting a negative response. Therefore, the training body or medium did not appear to affect the perceived effectiveness of the training delivered. It is also important to ensure sufficient numbers of personnel are trained within an authority in order to maximise the longer term sustainability of training received. The results show that the scope of training in terms of human resources appears varied between countries. Limited training was noted in Estonia, Ireland, Netherlands and Slovenia. While Poland provided the highest number of personnel trained, no quantitative information was provided for three Member States (16%) of cases where it was reported that “all relevant individuals” were trained.

### **3.2.2 National Training**

Information on the current level of training received at a national level was provided through the results of a questionnaire. The results show a wide variety of training methods and processes have been incorporated in to the training curricula of Member States (Table 2). However, the results help to demonstrate the majority of Member State national competent authorities have undergone some form of training related to IUU and the requirements of the regulation.

Furthermore, information obtained from case study visits indicate that training for IUU is incorporated into standard training provided for officers as part of their induction e.g. risk based management training will cover the requirements for the CFP and IUU; as will training provided for inspections. It is possible that specific training will be provided for particular systems or established for procedures for managing catch certificate validation and verification, especially the administrative requirements.

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<sup>35</sup>EFCA Work programme 2013-2017 [accessed 9.09.2013]  
<http://www.cfca.europa.eu/pages/docs/basic%20docs/Work%20Programme%202013.pdf>

**Table 2: Provision of training received within Member States across fisheries, customs and, veterinary and health authorities**

Member State	Fisheries Authorities	Customs Authorities	Veterinary and Health Authorities
Austria	T	GM/I	
Belgium	T		
Bulgaria	T;S;C/W	None	
Cyprus	T		
Czech Republic	None	-	-
Germany		GM/I	
Denmark	TBO	GM/I	GM/I
Spain	None	GM/I	No
Estonia	T		
Finland	S;T		
France	T	GM/I	
Greece	T		
Hungary			
Ireland	T	-	None
Italy			
Lithuania	T	GM/I	
Latvia	S;IC	GM/I; S;C/W	None
Malta			
Netherlands	T	GM/I; C/W;M	
Poland	S;C/W;T	GM/I; C/W;M	
Portugal		-	-
Romania			
Sweden	C/W;M	GM/I; C/W	-
Slovenia	None	GM/I	-
Slovakia			
United Kingdom	T	-	GM/I; M; T; C/W

*Grey- questionnaire not returned; A returned questionnaire with no response is indicated by a hyphen (-); None-nothing specified; GM/I-Guidance Manuals/Instructions; C/W-Conference/Workshops; M-Meetings; T-Training (not specified); S-Seminar; TBO-Training by officer; IC-Internal Comms.*

The questionnaire showed that various training methods are used to convey IUU Regulation information to all delivery partners including; seminars, workshops, internal communications or meetings directly relevant to the implementation of the IUU Regulation. One Member State, Denmark, clarified that a customs officer was trained specifically for their authorities' role and responsibilities for implementing IUU. The officer was then responsible for training other customs officers. Equally in the

UK, fisheries officers from the IUU department provided training to other delivery partners. Overall the training provided by the EFCA was highly valued by Member States.

Only two Member States responded that there were no specific procedures in place, one of which has no designated ports. In total, customs authorities from five Member States responded saying that they have received training in co-operation with EFCA and eight Member States responded that training of their fisheries authorities for IUU is the responsibility of the EFCA. Both the fisheries and customs authorities from the Netherlands attended the initial EFCA training workshops. The decision reflects the prominence of the role played by custom authority in the Netherlands.

Officials that attend training provided by the EFCA are expected to disseminate the information to their parent authority and other NCAs and delivery partners (see above). If not directly through a training programme, as referred to earlier, then this occurs through the development of guidance manuals/instructions. The questionnaires revealed that conference, workshops and meetings are also used to communicate this information to customs and sanitation/veterinary authorities. However, the responses from Member State sanitation and veterinary authorities indicates that they are not, in general, participatory in as many different forms of training and that they are less likely to have received specific training relating to IUU Regulation enforcement. However, responses from these authorities were limited and exceptions, such as the UK, were noted.

All enforcement officers undergo an induction period which includes generic training for their role as fisheries, customs or health etc. officers. The duration of the training period may vary between 6 months to 2.5 years, in addition to emphasis on accruing experience directly on the job. The value of working with experienced established personnel is also highly regarded. Training for IUU is incorporated to the standard training delivered by authorities for fisheries officers in parallel with the requirements of the CFP (VMS, and interpretation of data; investigation techniques and treatment and presentation of evidence) and other regulatory frameworks (e.g. RFMO requirements). As a general rule those officers from non-fisheries authorities receive training specifically for fisheries matters if they perform a specific role related to port control, either at designated ports and or BIPs.

Training specifically provided to Member States at regional level is delivered through the EFCA (see above). The Member State case studies all stated that the training programmes conducted through the EFCA provided an excellent forum to share experience as well as forge closer working relationships with regional colleagues. The regular nature of the training programme maintains its relevance and provides an opportunity for officers to refresh their knowledge and incorporate learned lessons into strategic, operational and tactical developments.

Some Member State case studies had also recognised the value of providing specialised training, namely in areas of DNA sampling and forensic accounting. Of note was the training or workshops provided to operators by Member State authorities to introduce the business sector and fishing industry to the IUU Regulation and so that they understand the implications: how they should manage their risk in addition to administrative and operational requirements. The workshops also raise IUU awareness amongst operators.

Fisheries officers in Denmark receive 2.5 years standard national training. In terms of specialist training, a task force within the DVFA performs financial investigations and generally perceived by the competent authorities to be an increasingly important tool for investigating IUU and fraudulent activity (e.g. in order to prevent IUU activity under articles 39 and 40 of the IUU Regulation). The Task Force is formed of officers with broad range of appropriate experience and background from police, customs and accounting services/sectors. Where possible joint training and workshops are conducted in order to share experience and maintain an overall institutional understanding of IUU issues.

The Danish authorities stated that they valued the regional training delivered through EFCA, and welcomed that the agenda could be set by Member States. As such, they suggested that its scope could be expanded depending on IUU Regulation implementation developments e.g. centralised database(s) and include involvement of the Commission to provide clarification on matters of interpretation to provide consistent approach at a regional level. The Danish authorities also introduced an operators' education forum that produced guidelines for dealing with IUU Regulation and provided access to specific information on IUU e.g. high risk countries and related EU news items. The initiative aims to facilitate improved self-regulation.

However, there were concerns that the value of training could be eroded if the IUU infrastructure is not improved, such as efficient databases, clear guidelines of interpretation provided by the Commission, and consistent implementation across the EU etc.

In Poland joint training workshop for all authorities are performed where possible e.g. the last EFCA training delivered in Poland was attended by fisheries and customs authorities. Equally workshops at regional level present the best opportunity to learn from experience of European colleagues and potential solutions/systems that can be appropriate for Poland. The scope of training could include globally important commercial fisheries plus high risk fisheries (covering trade), delivered by officers from the current European fisheries enforcement authorities with experience in these subject areas. Information booklets be produced by the EFCA and available to enforcement officers.

With regard to specialist training, the authorities will continue to monitor in respect of specific demands e.g. Customs offices have received training to take samples for DNA analysis through a project (CELFISH) between Polish Customs Service and West Pomeranian University of Technology CELFISH evolved as a response to potential fraudulent activity. The objective of the project is to develop a genetic database which would be useful to the PCS and other agencies in connection with fish product identification. Successes to date include the seizure of European eel *Anguilla anguilla*, commercially and biologically important species in 2009. The project has received overall political support. As such the customs officers at the Szczecin Customs Chamber have been trained in the correct procedure for the collection of DNA samples; but all national competent authorities for border control will be participating in training in the future. The application of the project is relevant for IUU Regulation and in the broader function of control and protection roles of the PCS. Falsification of declarations leads to abuses associated with setting tariffs and related taxes. Increased controls are carried out using modern genetic methods can help to reduce irregularities and bring additional revenues related to the assessment of the relevant duties. In addition the PCS will specifically, use the resource as an aid in the implementation of the Convention on International Trade in Endangered Species (CITES) Programme.

Germany's additional view on training was that successful programmes developed by other Member States should be considered for introduction at a regional level. The concept would deliver added value and efficiency; and could be coordinated through the EFCA.

In Spain, the Fisheries Authority is the designated body for implementing the IUU Regulation, so the principal training needs fall on them. Specialized training provided to Fisheries Authorities Officers includes:

- Training for officers on IUU is provided twice a year by the EFCA in Vigo, with 15 inspectors given detailed training on IUU Regulation recently.
- Training on the national IT system. The IT system was funded by EU and developed in-house 5 months after the Regulation came into force.
- Additional knowledge has been gained through the EU Commission experts meetings in Brussels.

The fisheries authority has conducted two training courses in 2010, 2011 and 2012 to support the implementation of the IUU Regulation:

- "Course on Control, Inspection and Fisheries Surveillance: EU system to prevent, deter and eliminate IUU fishing":
  - Intended for: fishing Inspectors Central and Peripheral Services.
  - Years: 2010/2011/2012. One course per year
  - Total number of participants: 45 people in the period 2010-2012
  - Responsible Training Unit: General Secretariat of Fisheries. General Directorate of Control and Inspection.
- "Proper application of the provisions of the IUU Regulation, from the legal standpoint."
  - Intended for: fishing Inspectors of the Central and Peripheral Services, and for instructors sanctioning procedures.
  - Years: 2010/2011/2012. Two courses per year.
  - Total number of participants: 120 people in the period 2010-2012.
  - Responsible Training Unit: General Secretariat of Fisheries. Directorate General of Legal Affairs.

In France, each training course on fisheries enforcement in the overseas regions incorporates a dedicated module on IUU fishing. This is because these French territories have a high requirement for this type of training. Training is carried out by *l'Ecole Nationale de la Sécurité et d'Administration de la Mer* (ENSAM). At the FMC, officers are trained in a wide variety of techniques including operating VHF radios, interpreting VMS data, cartography, and radar and satellite data. The focus of training for customs officers is on checking catch certificates.

In the Netherlands, customs are responsible for document control for fishery products imported (including indirect imports) and performed by specially trained officers who work closely with the Dutch Food and Consumer Products Safety Authority (NVWA) which is the competent authority for the functions under the IUU Regulation. At a regional level, both customs and fisheries officers attended training sessions initially (2010 and 2011) provided by the EFCA in Vigo. Now only fisheries officers attend but the material, tools and techniques accrued during training are disseminated through internal processes. Workshops developed and delivered internally at a national level and attended by officers from all the relevant departments provide the best means of training. The SLO design, develop and deliver the workshops for standard operating procedures in order to provide guidance and instructions to officers. Also, the SLO routinely communicates and holds regular workshops with partner Member States as part of improving performance systems and knowledge/information exchange processes. The outputs are communicated throughout the fisheries authority and can be incorporated into standard operating processes and procedures.

Just as in Denmark and Poland, DNA training has been provided in the United Kingdom to officers in the IUU department. The UK has also conducted a series of educating and outreach initiatives with business sectors and industry to raise awareness of IUU activity and the requirements of the regulation. Similarly, emphasis is put on the sector managing its risk effectively; plus specific advice on the administrative and operational adjustments that are required by the regulation.

### **3.3 Commission Services**

The IUU Regulation confers a number of specific obligations upon the European Commission. At the level of the Commission services the primary responsibility for the practical implementation of these obligations and for over-seeing the implementation of the IUU Regulation lies with Unit A1 (Fisheries Control Policy) of the Directorate General for Maritime Affairs and Fisheries (DG MARE). Unit A1 has a total staff of 20 of which six officers are responsible for the IUU Regulation. Several of the Commission services and NGOs consulted expressed the view that Unit A1 is under-staffed in terms of the broad scope of its responsibilities including as regards the implementation of the IUU Regulation. References to the Commission services in the text that follows should therefore be understood to refer to DG MARE.

With regards to the Commission services in other directorates general, Directorate General Trade (DG TRADE) has a limited operational input in terms of the implementation of the IUU Regulation. DG TRADE's role is primarily to advise on the trade implications of the implementation of the IUU Regulation in connection with the obligations of the EU under the rules of the World Trade Organisation in particular with regards to the listing of third countries as non-cooperating. Officials from DG TRADE have however participated in missions to third countries (for example to Ghana) relating to the IUU Regulation. DG TRADE is a member of the inter-service group formed by DG MARE in connection with the IUU Regulation.

The Directorate General Health and Consumers (DG SANCO) is not directly involved in the implementation of the IUU Regulation. Rather DG SANCO is responsible for *inter alia* the implementation of the electronic Trade Control and Expert System (TRACES) which is used to monitor the import of fish products into the EU from a sanitary/health perspective. TRACES operates in parallel to the catch certificate mechanism of the IUU Regulation but it serves quite a different function. More specifically DG SANCO is responsible for ensuring that import controls are carried out on fish products from third countries and to determine the import conditions of such products in order to safeguard consumers within the EU. Manual mechanisms have been established for the exchange of information between DG SANCO and DG MARE that can be used to cross check performance and in general terms cooperation between the directorates general has been improved and joint trainings and joint audits/evaluations are being undertaken.

In a similar manner while the Directorate General Taxation and Customs (DG TAXUD) is responsible at the EU level for the customs regime and procedures that also operates alongside the catch certificate scheme it is not directly involved in the practical implementation of the IUU Regulation.

Although DG TAXUD was consulted on the development of the IUU Regulation the key issue is how the customs regime operates in practice alongside the catch certificate scheme.

Finally mention can be made of the Directorate General Development and Cooperation (DG DEVCO) the technical assistance projects of which may be used to support third countries to better implement their obligations concerning fisheries management and conservation measures but which does not play a role in the practical implementation of the IUU Regulation as such.

In terms of the practical implementation of the IUU Regulation the main activities undertaken by DG MARE are described in the following paragraphs.

### **3.3.1 Catch certificates and cooperation with third countries**

In terms of the catch certificate scheme provided for in the IUU Regulation the first duty of the Commission is to review the notification required to be provided by flag States pursuant to article 20. Such notifications, which must be in the format specified in Annex III of the IUU Regulation, must certify that: (a) the flag State has in place appropriate national arrangements for the implementation, control and enforcement of relevant fisheries legislation applicable to its fishing vessels; and (b) that its specified public authorities are empowered to 'attest the veracity' of the information contained in catch certificates and to verify these on the request of the Member States. If on reviewing such notifications the Commission finds that relevant elements are missing it may request their re-provision.

Moreover pursuant to article 20(4) the Commission 'cooperates administratively' with third countries in areas relating to the catch certificate scheme including the use of electronic means for their validation or submission. The aims of such cooperation are to ensure *inter alia* that fishery products imported into the EU originate from lawful catches, that flag States can ensure compliance with port access, importation and the verification of catch certificates, to provide for the conduct of on the spot evaluations by the Commission and to provide for the establishment of a framework for the exchange of information.

The system of flag State notification provided for under article 20 is essentially a trust based system. Based on this article some 90 notifications have been accepted from third countries to date and this article also provides the basis for evaluations. Some 30 countries have received evaluation missions to date on a non-discriminatory basis based around a balanced geographic approach and risk criteria relating to IUU fishing. In particular a common assessment methodology was developed in 2009 before the first third country notifications were received.

In terms of the evaluations, while care is taken by the Commission to ensure that necessary information is provided to the Member States in connection with fisheries import flows, the complete evaluation reports are not forwarded. Again this is because the system created by article 20 is based on trust and it is necessary for the Commission to respect that. Otherwise if the complete evaluation reports were released then the third countries involved might refuse future cooperation with the Commission.

### **3.3.2 EU alert system**

Chapter IV of the IUU Regulation makes provision for a 'EU alert system' whereby if information gathered under Chapters II, III, V, VI, VIII, X or XI of the IUU Regulation raises well founded doubt as to the compliance by fishing vessels or fishing industry products for certain third countries with applicable laws and regulations or with international conservation and management measures, the Commission must publish an alert notice on its website and in the Official Journal in order to warn operators and ensure that the Member States take appropriate measures. Upon receipt of such information, the Member States must in accordance with risk management identify consignments of fishery products that fall within the alert notice, ensure that future consignments are submitted to verification of the catch certificate, identify previous relevant consignments and submit relevant fishing vessels to the necessary enquiries or as appropriate inspections at sea.

The outcome of such verification measures must be communicated to the Commission and the Commission may as appropriate annul, update or modify an alert notice.

To date, the EU alert system has not been used and communication between the Commission and Member States has been primarily been through Mutual Assistance (3.3.5).

### 3.3.3 IUU vessel list

The IUU Regulation requires the Commission to prepare and periodically update a EU IUU vessel list ('EU IUU vessel list') comprising vessels engaged in IUU fishing listed by the Commission pursuant to the IUU Regulation and vessels listed by RFMOs.

In accordance with Chapter V of the IUU Regulation the Commission is required to take measures to identify fishing vessels involved in IUU fishing. Article 25 imposes a general duty on the Commission, or a body designated by it, to compile and analyse information on IUU fishing obtained in accordance with the IUU Regulation as well as other relevant information such as catch data, trade information, RFMO IUU vessel lists, and reports including reports of sightings and reports made under the Control Regulation. The Member States may, in addition, provide information to the Commission which must circulate information together with evidence to concerned Member States and flag States. Moreover the Commission must maintain a file on each fishing vessel alleged to be involved in IUU fishing. In practice the Commission does not simply re-publish the RFMO IUU lists but also undertakes its own analysis and assessment. Some 200 cases have been investigated under article 25.

Where sufficient evidence has been obtained pursuant to article 25 that a vessel is presumed to be engaged in IUU fishing, article 26 requires the Commission to notify an official request for an enquiry to the third country flag State or flag Member State concerned. In effect article 26 requires the Commission, on the basis of an analysis of the data gathered pursuant to article 25, to require the relevant flag State to undertake investigation and, as appropriate, enforcement measures.

In the case of such notifications to third countries, which must provide all of the information gathered about the alleged IUU fishing, these must officially request the flag State concerned to investigate the alleged IUU fishing, to take immediate enforcement action should the allegation prove founded and to notify the owner/operator of the impacts of including the vessel in the EU IUU vessel list as well as notifying the flag State of the provisions in Chapters VI and VII on non-cooperating third countries and accompanying measures. Notifications to flag Member States must contain similar elements save that investigation measures are to be undertaken in accordance with the Control Regulation and while fishing vessels flying the flag of Member States may be included in the IUU vessel list the provisions on non-cooperating third countries obviously cannot apply to flag Member States. In respect of both kinds of notification the flag State concerned must keep the Commission informed as the measures undertaken and to provide, as appropriate, evidence of enforcement action taken. Finally, article 26(4) requires the Commission to circulate information on vessels presumed to be engaged in IUU fishing to all of the Member States in order to facilitate the implementation of the Control Regulation.

Article 27 provides that if the flag State concerned does not comply with official requests contained in the article 26 notifications in terms of undertaking investigation and enforcement action, the fishing vessel that is engaged in IUU fishing should be included in the EU IUU vessel list to be established pursuant to article 27(1). Before placing any vessel in the list, however, the Commission must provide the owner and as appropriate the operator with a detailed statement of reasons for the intended listing which must *inter alia* provide the owner or operator the opportunity first to be heard and to defend his/her case.

Although some 50 cases have been followed up by the Commission services pursuant to the procedure laid out in articles 26 and 27, no fishing vessel has yet been listed pursuant to article 27. Moreover, in no case has the flag State concerned failed to respond to an article 26 notification. The reason why no vessel has yet been listed pursuant to article 27 is either because the flag State concerned is able to show that the fishing activity was not in fact IUU (by providing evidence of a high seas fishing licence for example) or that appropriate enforcement measures have been undertaken either by the flag State concerned or in some cases by a coastal State. In cases where enforcement measures have been undertaken the sufficiency of the sanctions are evaluated by DG MARE and by the Commission Legal Service having regard to the principle that no vessel should be sanctioned twice for the same offence and the requirements of article 19(2) of the UN Fish Stocks Agreement.<sup>36</sup>

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<sup>36</sup> Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks New York, 4 August 1995. In force: 11 December 2001, 2167 *United Nations Treaty Series* 3; <[www.un.org/Depts/los](http://www.un.org/Depts/los)>.



Subsequent provisions in the IUU Regulation relate to the removal of vessels from the EU IUU vessel list (article 28) and the content, publicity and maintenance of the list (article 29).

With regards to the inclusion of vessels listed in RFMO IUU vessel lists in the EU IUU vessel list this issue is addressed in article 30. In practice RFMO IUU vessel lists are first reviewed by the European Commission before being included in the EU IUU vessel list. The EU IUU vessel list was first established pursuant to a Commission regulation in 2010<sup>37</sup> and has been recently updated in February 2014 in accordance with a Commission Implementing Regulation.<sup>38</sup>

Given that no flag State has yet failed to respond to an article 26 notification, the fact that no vessels have yet been included in the EU IUU vessel list pursuant to article 27 should not be seen as a weakness in terms of either the design or operation of the listing system. The fact remains that the IUU Regulation seeks to prevent IUU fishing through the better enforcement of existing conservation and regulatory measures in particular those created on the basis of international law. In this context responsibility for sanctioning IUU fishing lies with the flag State in terms of high seas fisheries and with the relevant coastal State in the case of fishing within waters under national jurisdiction.

The imposition or otherwise of sanctions by third countries against fishing vessels that fly their respective flags has implications both for the removal of fishing vessels from the EU IUU vessel list and for the identification of non-cooperating third countries.

With regards to the first element the Commission must remove a fishing vessel from the EU IUU vessel list if the flag State of that vessel demonstrates either that the vessel did not engage in the IUU fishing activities for which it was placed on the list or that proportionate, dissuasive and effective sanctions have been applied in response to the IUU fishing activities in question.

With regards to the second element, the Commission is specifically required to take into consideration the question of whether a third country has taken effective enforcement measures in respect of the operators responsible for IUU fishing and in particular whether sanctions of sufficient severity to deprive the offenders of the benefits from IUU fishing have been applied.

### **3.3.4 Non-cooperating third countries**

The obligations of the Commission with regard to non-cooperating third countries are set out primarily in Chapters VI and VII of the IUU Regulation. Article 31(1) requires the Commission to identify the third countries it considers as non-cooperating third countries in fighting IUU fishing. A third country may be so identified if it fails to discharge its duties as a flag, port, coastal or market State to take action to prevent, deter and eliminate IUU fishing.

To this end the Commission services undertake a risk analysis of third countries based on such matters as alert messages sent by Member States identifying problems with catch certificates from a flag State, failure to comply with RFMO rules, volumes of trade flows and size of the fishing fleet.

If a third country is identified as posing a risk a letter and questionnaire is sent to it in order to initiate a dialogue so as to improve common actions to combat IUU fishing. The administrative authorities concerned (as notified pursuant to article 20 of the IUU Regulation) are asked to respond within 60 days. During this period all available relevant information is reviewed by DG MARE. This is usually followed up with a technical evaluation, in agreement with the third country involved at the conclusion of which a mission report is issued and discussed with the administrative authorities with a view to continuing the cooperation process. Subsequently a dialogue mission may be held with the agreement with the third country with the aim of ensuring continued cooperation.

If however improvements are insufficient or non-existent the Commission may decide to initiate a pre-identification process in accordance with article 32 of the IUU Regulation on the basis of notification to the country concerned that it faces the possibility of being formally identified as a non-cooperating third country. Such a notification must also include a request to the third country concerned to take

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<sup>37</sup> Commission Regulation (EU) No 468/2010 of 28 May 2010 establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing (OJ L 131, 29.5.2010, p. 22).

<sup>38</sup> Commission Implementing Regulation (EU) No 137/2014 of 12 February 2014 amending Regulation (EU) No 468/2010 establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing (OJ L 43, 13.2.2014, p. 47).

the necessary measures in terms of IUU fishing. Such a notification does not have any detrimental trade effects.

A six-month period is given to the country to remedy any defects and high level meetings may be held in Brussels or in the third country concerned. After this period the Commission services analyse the situation following which the pre-identification process may be terminated if the shortcomings have been rectified or, if substantial progress has been made the dialogue may be extended for a further 6-9 months or if finally if progress is not considered adequate the Commission may proceed to initiate the formal process of identification pursuant to articles 31 and 33 of the IUU Regulation. The first step is taken by way of a Commission Implementing Decision which formally identifies the country concerned as a non-cooperating third country. Such a decision was most recently adopted by the Commission on 26 November 2013 in respect of Belize, Cambodia and Guinea.<sup>39</sup>

The second stage involves the inclusion of the third country concerned in a list of non-cooperating third countries, which is adopted by the Council on the proposal of the Commission and published in the Official Journal. The inclusion of a country in that list will give rise to a number of consequences specified in article 38, the most significant of which are that the import into the EU of fishery products caught by fishing vessels flying the flag of such countries are prohibited (and the relevant catch certificates are not accepted). Such a listing has been adopted by the Council on 24 March 2014 based on proposal from the Commission recommending that Belize, Cambodia and Guinea were listed as non-cooperating third countries.

In addition article 36 provides for the adoption by the Commission of emergency measures for a period six months (renewable for a further six months) in the event that there is evidence that measures adopted by a third country undermine the conservation and management measures adopted by a RFMO. Such measures may include suspending port access to fishing vessels flying the flag of the third country concerned, prohibiting joint fishing operations with vessels from that country, prohibiting EU fishing vessels from fishing in the waters of that country. However, this power has yet to be exercised.

### **3.3.5 Mutual assistance**

Article 51(1) imposes a duty on Member State administrative authorities responsible for the implementation of the IUU Regulation to cooperate with each other, with administrative authorities in third countries and with the Commission in order to ensure compliance with the regulation. To this end a mutual assistance system, which must include an automated information system called the 'IUU fishing information system' is to be established and managed by the Commission or a body designated by it.

Detailed rules on this issue are set out in Commission Regulation 1010/2009 which requires each Member State to communicate to the Commission any information that it considers relevant concerning 'methods, practices or revealed tendencies used or suspected of having being used for IUU fishing' or serious infringements as referred to in article 42(1)(b)-(c) of the IUU Regulation. Moreover the Commission must communicate any information that would help them enforce the implementation of the IUU Regulation as soon as it becomes available.

In cases where a Member State becomes aware of operations which constitute, or appear to constitute, IUU fishing or serious infringements referred to in article 42(1)(b) and (c) of the IUU Regulation (and which are of particular relevance at EU level, it must as soon as possible communicate any relevant information needed to determine the facts to the Commission and the Commission in turn must inform the other Member States concerned. Such operations and activities are deemed to be of particular relevance at EU level especially where they have, or might have, connections in other Member States or where it appears likely that similar operations have also been carried out in other Member States.

Where the Commission considers that operations that constitute IUU fishing or serious infringements have taken place in one or more Member States it must inform such Member States as soon as

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<sup>39</sup> Commission Decision of 26 November 2013 on notifying the third countries that the Commission considers as possible of being identified as non-cooperating third countries pursuant to Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (2013/C 346/03).

possible. Member States so informed must carry out enquiries as soon as possible and communicate their findings to the Commission.

While most of the information received by the Commission services comes from the Member States it may derive from a number of sources including NGOs, citizens and third countries. Within DG MARE a structured internal procedure has been developed to analyse the information received in terms of reliability, substantiation etc., and once it is presumed reliable it is cross checked as far as possible with other Units, EU Delegations, concerned RFMOs and the EU Legal Service and verified as far as possible through public sources.

Next the legal basis is assessed to determine the type of Mutual Assistance message to be addressed to the Member States: the simple transmission of information pursuant to article 49 of Regulation 1010/2009 and/or a request for investigation under article 50 of that regulation. In the case of an article 49 transmission all relevant data are transmitted to the Member States while in the case of an article 50 request this is sent to the particular Member States involved. In all cases messages are sent exclusively by email addressed to the SLO that each Member State must identify through a dedicated and secured functional mailbox. The messages themselves contain only facts (and not interpretations or instructions) and respect data protection rules.

Depending on the subject matter, relevant Member States may be invited to respond and such responses are analysed by the Commission services with additional Mutual Assistance messages being sent subsequently as appropriate. Information gathered through the Mutual Assistance system can be used during evaluation missions in third countries and to support on-going investigations on IUU fishing activities. In this connection it is important to emphasize that the role of the Commission services is essentially one of coordination: they may not instruct individual Member States to accept or refuse consignments.

### **3.4 Third countries**

Although the IUU Regulation is not directly binding upon them, third countries that wish to export fishery products into the EU must put into place appropriate national arrangements for the implementation, control and enforcement of relevant fisheries legislation applicable to their fishing vessels including the establishment of an appropriate scheme to enable the issue of catch certificates in the format specified in Annex II of the IUU Regulation.

Third countries that have designated national competent authorities to the Commission under article 20(1) of the Regulation are required to notify the names, addresses and official seal prints of the public authority which is empowered to attest the veracity of information provided in the EU catch certificates and validate them. Specific details of the information required by the Commission from flag States is specified in Annex III of the Regulation. Pursuant with article 20(4) the Commission may at any time conduct an evaluation to verify the effective implementation of the cooperative agreement.

In accordance with article 12(4) of the IUU Regulation, the catch certificate provided for in article 12 and Annex II of that regulation has been replaced for fisheries products obtained from catches made by fishing vessels flying the flag of Norway, United States of America and New Zealand using their own catch certificate, which ensures the same level of control by authorities as required under the Community catch certificate scheme. Member States can check the veracity of these catch certificates through simple electronic means, which are both efficient and effective to use<sup>40</sup>. Further details of IT tools developed by third countries to manage catch certificates are provided in section 4.3.

Under the flag State notification, third countries provide contact details of their respective national competent authorities, which are published by the Commission<sup>41</sup>. These provide a focal contact point for Member State national competent authorities to request help, where required (e.g., verify a catch certificate). It has been reported, that Member States may contact individuals from third country national authorities using personal email addresses rather than generic mailboxes. While this is likely to be the most efficient and effective form of communication and cooperation in third countries,

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<sup>40</sup> Demonstration of U.S. catch certificate verification process was shown during case study visit to the port of Le Havre (BIP), France

<sup>41</sup> [http://ec.europa.eu/fisheries/cfp/illegal\\_fishing/info/flag\\_state\\_notifications.pdf](http://ec.europa.eu/fisheries/cfp/illegal_fishing/info/flag_state_notifications.pdf) (18 March 2013) [accessed 28.08.2013]

particularly developing countries, this cannot be seen as a sustainable process to implement the IUU Regulation.

### 3.5 Economic operators

The issue of economic operators is addressed under Chapter II of Regulation 1010/2009. An importer may apply to be granted the status of approved economic operator (APEO), following an application and approval by the competent authorities of a Member State for the purposes of article 16 of the IUU Regulation if they hold an authorised economic operator (AEO) certificate in accordance with Commission Regulation (EEC) No 2454/93, and that they fulfil the criteria laid down in article 16(3)(a) to (g) of the IUU Regulation.

The demand for APEO status is relatively low, and at the time of writing only four importers had been granted APEO status, including Austria (1), Germany (2) and the Netherlands (1)<sup>42</sup>. Consultation with an AEO during the case study visit to the Netherlands revealed that the systems and procedures used by operators with AEO certification are consistent or can be adapted for the requirements of APEO status, including catch certificate requirements (specifically adherence to the requirements of article 12 of Regulation 1010/2009). The operator stated that the real cost incurred is developing the systems required for either AEO and/ or APEO certification. Furthermore the operator stated that the initial development costs were associated with incorporating the catch certificate requirements into the existing company systems for stock control and customs requirements. Overall, the company had not applied for APEO certification as the perceived benefits are considered to be low. The systems operated by the company had been audited by customs and fisheries authorities for compliance/conformance with regulatory requirements. Furthermore, in some Member State economic operators are expected to be required to make a payment to gain this status (e.g., Germany), further reducing the economic benefits.

However, two APEOs based in Germany indicated a number of perceived benefits of the system, which included a short and straightforward application process, lower administration burden leading to increased economic efficiency. Once up and running there were no real perceived disadvantages, although operators must be diligent in the regarding the completion, accuracy and veracity of catch certificates. It was also noted that although the application process is simple and straightforward, the initial administrative burden can be significant. Without significant benefits, this initial administrative burden may prevent other importers applying for APEO status.

In addition to stakeholders from industry, Member State authorities from each case study suggested the main reason behind the reported low interest in the APEO scheme was that the administrative systems currently in place already provide an efficient and effective service to manage the additional burden associated with the catch certificates and operational needs, that there is no clear benefit to be gained by APEO status as foreseen by article 16(2) of the IUU Regulation and article 20 of Regulation 1010/2009. For example, France's custom clearance system allows for consignments classed under the green circuit (see section 3.1.4.3) to automatically clear customs, with the catch certificate and other required documentation checked *ex-post*, thus rendering an efficient clearance process for operators.

Also case study NCAs were of the opinion that operators took the view that it was a lower risk to prepare all the necessary control documents (catch certificate is just one of many) to ensure that the movement of goods was not delayed for any reason. It is noteworthy that Spain, one of Europe's largest importers of fishery products, has yet to develop an APEO scheme. It was stated that this is primarily due to the complexity of trade patterns and markets and that Spanish authorities want to complete an impact assessment first before committing any resources at this time.

Denmark and the UK have established awareness programmes for operators in which they are kept apprised of IUU requirements and developments. The onus is put on operators to own and manage their risk effectively.

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<sup>42</sup> [http://ec.europa.eu/fisheries/cfp/illegal\\_fishing/info/approved\\_economic\\_operators\\_en.pdf](http://ec.europa.eu/fisheries/cfp/illegal_fishing/info/approved_economic_operators_en.pdf)

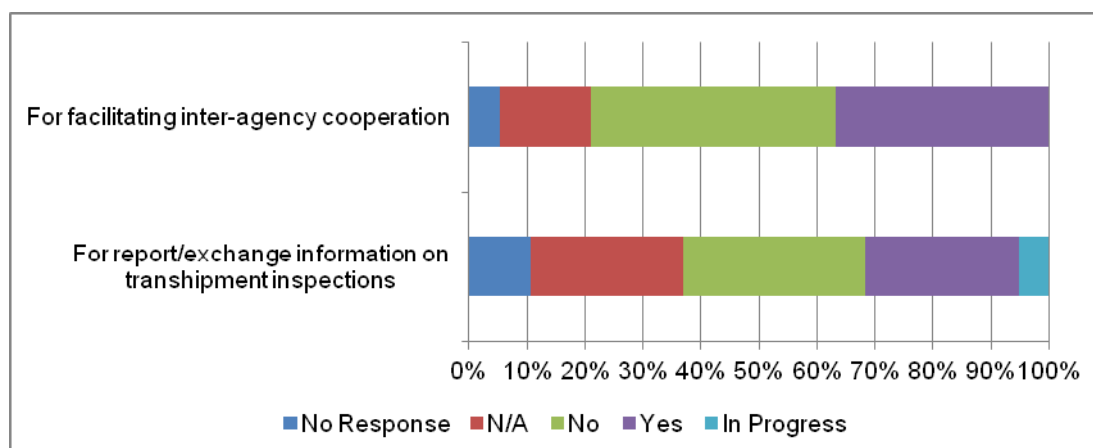
## 4 IT tools

### 4.1 Member State level

Unlike other EU structures, there are no requirements under the IUU Regulation to use specific IT tools at either a national or regional level. Instead, Member States can develop their own systems, which remains a significant challenge that countries must meet to implement the IUU Regulation. This requires information to be collected and organised by national authorities whilst creating an operating system(s) which provides the information efficiently so that enforcement authorities can perform their duties effectively.

To date, a number of IT tools have been developed to assist Member States in the implementation of the IUU Regulation. Systems that help standardise national procedures are expected to lead to greater efficiencies and overall be more effective. In turn these can lead to a uniform approach to implement key measures in the IUU Regulation across all Member States. These may include for example, systems to improve inter-agency coordination and communication, catch certificate management and processes, a risk based management system for document and physical checking, essential operational information and inspection and control activities. Specific examples of IT tools employed in Member State case study countries are provided below.

Information obtained through questionnaires showed that specific IT systems for facilitating inter-agency cooperation were developed in only 37% of Member State cases and nearly half (42%) had no specific IT systems to facilitate these processes to date (Figure 17). Results showed that France has yet to develop an IT system, but explained during the case study visit that a database built on the model of TRACES for inter-agency cooperation would be very advantageous. In addition, Sweden mentioned they were making progress with a catch certificate registration system with the customs centre. In contrast, Spain has developed an IT tool (SIGCPI) to facilitate better communication between the FMC and customs to control catch certificates.



**Figure 17: Development of IT systems within Member States to facilitate inter-agency cooperation (top) and report/exchange information on transshipment inspection (bottom)**

Data source: this study.

In general, the inter-agency IT tools that had been developed for co-operation was predominantly mediated through shared databases, such as LZIKIS (Latvian), or the Integrated Fisheries Data Information System (Lithuanian). Communication through email, SMS and the TRACES system was also mentioned although over 60% of IT tools were bespoke shared databases.

IT systems have not been set up in the majority of cases for Member States to support prior notifications. This may be attributed to the fact that no defined electronic format exists for agreements with third countries and therefore notifications are not received via a universal format. The establishment of a universal, electronic format with existing agreements with third countries would advocate the creation of a support system<sup>43</sup>.

<sup>43</sup> Danish case study indicates that the “Commission has not defined electronic formats in the existing agreements with third countries and it is therefore the responsibility of the actual Member states to agree with

Selected examples of how Member State case study countries applied IT tools are provided below:

All the case study Member States use remote vessel monitoring systems such as VMS and Automatic Identification System (AIS) to cross check veracity of entries in control documents and mapping software to generate V-tracks necessary to determine and analyse vessel activity. Electronic logbook system developed to implement Council Regulation (EC) No 1966/2006<sup>44</sup> were also employed for similar purpose and for one of the standard cross checks required to validate catch certificates. The case study countries also access a number of closed and open sources such as RFMO catch certificate schemes and IUU lists.

Denmark stated that the initial understanding of implementation requirements was the biggest challenge followed by gradual development of IT and operational systems relevant to the IUU Regulation and that reflect Danish fisheries characteristics, plus institutional resources. For example, Danish authorities found that the current EU Specimen Management System (SMS) database was not an effective tool for day-to-day operational use. It was accepted that it was conceptually a good idea and contains valuable information. However, its functionality was poor because of difficulties with obtaining access to the system and because of poor organisation of the information. Therefore its strength as a valuable reference tool was diluted for alerts, notifications, informing the risk based management, third country enforcement officer signatures and official country stamps, etc. As a result Denmark developed its own database based on information extracted from the SMS which was made available to enforcement officers in a more effective and efficient format.

Denmark has also developed an IT tool to implement its risk based management approach. The system combines the outputs of several databases/information sources which are run through a model (algorithms) to produce a risk index for each Danish flagged vessel. The intention is to expand the approach and system to third country vessels once the most accurate factors for the model are determined following testing. Denmark also employs IT systems for managing catch certificate and inspection and control activities. A dedicated database has been created and available on the main network in which the catch certificate is registered, the date and operator involved plus the registration number of the fishing vessel. Each officer has a unique user ID so that all entries can be traced to individual officers. The database is used as a look up reference tool for enforcement purposes but has also proven instrumental for invoicing agents for validating the catch certificate.

Spain has developed an IT tool to facilitate inter-agency cooperation and to manage catch certificates; SIGCPI (Integrated System for the Management and Control of Illegal Fishing) application. The system is used both to facilitate the cooperation between the Fisheries Authorities and the State Agency of Tax Administration (Customs Authorities), and to manage catch certificates. Import requests are processed via the Internet using SIGCPI. In order to process import requests through this application, the operator must be previously registered as user with the *Secretaria General de Pesca*. The operator is required to submit an import declaration, the catch certificate, health certificate, transport document and any other documentation required. SIGCPI integrates and automates the processing of import requests and issues an import report, providing a single portal for the operators, the *Secretaria General de Pesca* and the State Agency for Tax Administration (AEAT - Customs). A non-exhaustive list of functions performed by SIGCPI, include:

- Automate the transmission of authorisations to the computer system of Customs Authorities (AEAT) and prevent the counterfeit of licenses;
- Provide the operators (importers) with a system for recording and submitting the applications to the *Secretaria General de Pesca*;
- Have a system for the validation, management, processing and resolution of the requests of the *Secretaria General de Pesca*;
- Ensure the quality, integrity and traceability of the data managed concerning catch certificate (exporter, importer, applicant, vessel details, flag, date and area of catch, species and quantities, presentation and preservation of the product and validating authority); Registry of

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third countries to define these. Because of this non-harmonised approach AGRIFISH has deferred the decision to establish an IT support system”.

<sup>44</sup> Repealed by Council Regulation 1224/2009.

data regarding transport means, export point, point of entry and customs office of clearance, current location of consignment.

- Facilitate the consultation and operation of system's information for:
  - reports to the Commission
  - ad-hoc queries
  - Reports of RFMOs
  - Risk Identification and establishment, and verification
  - Identification of commercial relationships between companies and operators
  - Monitoring quotas set by the RFMOs.

The *Secretaria General de Pesca* produces reports on a weekly, monthly and yearly basis with information obtained from the SIGCPI application. These reports are used to study and continuously monitor imports.

Although the SIGCPI application has a catalogue of countries which provide validated certificates, the verification process is currently done manually by an agent of the *Secretaria General de Pesca* for 100% of certificates. The next updates of the SIGCPI application is scheduled to automate this verification

Spain also has an application for the issue of catch certificates for exportation:

- Automates the process for issuing the export certificate, providing a single portal for all stakeholders.
- Checks the information provided through web services connected to databases with the information on the certificate.

France uses a variety of IT tools in place for both customs and the fisheries authority. The fisheries authority uses an IT tool called TRIDENT, previously the main tool for VMS data and is now used to archive catch certificates and other information. TRIDENT is used to send authorisation or refusal of imports automatically to circulation lists.

Customs have several IT tools available. The Delta system is used to receive and archive all documents provided by operators for the pre-notification and the catch certificate verification process. The Delta system is also used to identify the consignments assigned to the *green route*, which are verified post clearance. Another IT tool is to generate risk assessment which then targets any consignments which match the risk criteria. For the catch certificates that have passed the document check the customs IUU operator files the documents on the server so they can later be checked during the clearance procedure.

The customs authority may also use IT tools which are only used by a single port. For example, *AP+* is used only in the port of Le Havre. This system was developed by the port authority with access available to all port users. Stakeholders include customs, freight agents, shipping lines, and liner agents. Every container entering the port for landing or transshipping is registered in *AP+*. The logistical information in the system allows customs to implement various customs specific controls and to track containers moving through the port:

- Verify the EU status of goods ( T1 /T2)
- Establish who is responsible for a container / merchandise being imported or exported
- For IUU purposes to check if the container / merchandise conforms to pre notification requirements and timelines

The Netherlands use an IT system, the *Veterinarie Grens Controle* (VGC), originally developed for veterinarian purposes but now available to customs staff for IUU purposes. The functionality of the database allows multiple reference criteria so that a subject can be searched by species, processing State and premises and product. It also provides confirmation of the official validation stamp of the third country and the signature of the respective official in order to test the veracity of the catch/health certificate. The functionality of the database includes a record of the cross checks performed by

officers under a unique electronic file. Key information on the utilisation of the proportion of catch imported/utilised is also recorded against that catch certificate number for future reference and analysis.

The Netherlands customs authority also uses an IT system to facilitate the risk management approach for all cargo movements and coordinate the inspection response. The respective risk is evaluated and appropriate response determined by the Rainbow Team as described earlier. The outputs of the process are uploaded electronically as risk profiles into the customs risk analysis system PRISMA. When PRISMA identifies a consignment for inspection the Customs Control Centre (CCC) decides which enforcement authority should conduct the inspection. Depending on the cargo and the risks identified it is possible that several enforcement authorities may be involved. The approach delivers a coordinated, cooperative and integrated approach to the cargo inspection process in the most efficient and effective manner.

The IT system, *AUTOSTORE*<sup>45</sup>, is in use by port authorities in Poland as a single window service/one-stop-shop for consignment management purposes, and to support the risk based management approach and inspection operations for imports. The database contains vessel/voyage and manifest data provided by shipping agencies and carriers. Containers cannot be removed from the port unless notified/authorised through AUTOSTORE and by the customs authorities. All relevant enforcement bodies have access to the system so they can determine what inspections have been performed and any subsequent actions taken. The system is used to coordinate inspection activities and aids authorities maintain operational efficiency. Following inspections by the Regional Sea Fisheries Inspectorates (RSFIs), the PCS is notified who then authorise release of goods on behalf of the RSFI on the AUTOSTORE system.

Polish Customs Service (PCS) apply the current EU common risk criteria (article 31 of EC No. 1010/2009) in connection with safety and security in order to identify and control high-risk goods movements. This risk methodology is heavily dependent on the receipt by customs of pre-arrival and pre-departure cargo information – the Import Control and Export Control Systems. In addition, customs authorities also use an import/export database called *CELINA*<sup>46</sup>, which is used to process all transactions at import and export. Similar systems are in place in all Member States such as *CHIEF* in the UK and *ATLAS* in Germany. In addition to the clearance of goods, the system is used to identify goods which require document check or physical examination by using a risk profiling system. Data for this risk profiling can originate from such sources as the AUTOSTORE system, TRACES, CRMS, and the RSFIs and from the Customs Risk Information Form (RIF). The Customs Chamber in Szczecin also receives manifest information on a voluntary basis from a number of carriers. This information can also form the basis for risk profiling.

Once the risk profile for the goods is entered in the CELINA system, the risk must be addressed before the goods are released. As well as a description of the risks, the profile also contains a range of instructions depending on options for dealing with that specific risk factor. The system also tracks the actions performed by the respective enforcement service(s)/officers(s) involved.

The RIF noted earlier, is used as a tool in the support of targeting and risk analysis. It is an automated messaging system for exchanging risk information between national customs offices and throughout the EU in connection with potential irregularities. A specific example was given by the Polish customs authority where an importer had incorrectly declared a particular species of fish at import in Szczecin thereby paying a lower rate of Customs duty. This information was uploaded to the RIF database to

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<sup>45</sup> The AUTOSTORE system was established under the auspices of Decision No 70/2008/EC on a paperless environment for customs and trade and Commission Decision 2009/767/EC setting out measures facilitating the use of procedures by electronic means through the points of a single contact under Directive 2006/123/EC.

<sup>46</sup> CELINA is populated by the EU TARIC system which includes control measures in relation to fishery products under Chapter 03 and under Tariff headings 1604 and 1605 of the Combined Nomenclature (CN). The CELINA system will automatically flag the requirement for valid catch certificates following the input of customs declarations (Single Administrative Documents – SADs) in respect of fishery products under Chapter 03 and under Tariff headings 1604 and 1605 of the CN. Operators in possession of valid catch certificates for the fishery products referred to above have been instructed to insert (1) code C673 and (2) the number of the catch certificate in Box44 of the customs declaration (SAD). In the normal course this should result in the automatic clearance of these fishery products into free circulation. As referred to above, this does not happen as the PCS has already inserted conditions into the CELINA system which prevents this from happening



inform other ports in Poland and throughout the EU in the event the importer repeated the infringement elsewhere.

The United Kingdom Port Authorities receive notifications of incoming consignments from the Port Community IT System (an electronic manifest system operated by the Felixstowe Port Authority). These consignments are then subjected to controls carried out in respect of veterinary and health checks and also IUU checks. The Port Community IT System is linked directly to another IT tool, the in-house PHILIS BIP IT system. This latter system is used by the Port Authority officers to coordinate its day to day control activities which covers checks in relation to both veterinary/health and IUU activity. In fact all of the IUU material relevant to the catch certification verification process has been uploaded to PHILIS.

The use of IT tools in Germany was based on the strategic decision to develop a cost efficient and cost effective system that utilised the existing resources with specific emphasis placed on the need to move as much as possible towards an automated system to implement the IUU Regulation. It was decided at an early stage that the administrative burden as a result of implementing the IUU Regulation and those specifically related to management of catch certificates would be excessive, ineffective and unsustainable unless an electronic system was developed. Six months were allocated for the development of the system but a further six months were required to complete the task.

Germany has recently (2013) developed a web-based electronic registration system used in the BLE which issues a certificate for imported goods which becomes a component of the catch certificate and must be submitted at the same time to customs when being declared. This effective IT tool is expected to bring greater efficiencies to managing and controlling catch certificates within the country.

## **4.2 EU level**

The EU currently has no regional IT system in place to support Member States implement the IUU Regulation. By comparison, as already mentioned DG SANCO is responsible for managing TRACES, the central database that monitors animals and animal product movements into and around the EU. It is based on a network using internet veterinary authorities of Member States and participating non-EU countries. Through it, central and local authorities, BIPs and economic operators are linked. It provides the ad-hoc European Union legislation, also incorporates a list of establishments from countries outside the EU authorised for export of products to the EU, a key risk factor and cross-checked by enforcement authorities list, and keeps on file the rejected consignments and the reason for rejection.

Data can be entered into TRACES by registered users including economic operators and competent authorities (both Member States and some third countries) therefore integrating the private and public sectors. Economic operators fill out electronic forms online detailing the animal/product, its origin, destination and any additional information. For intra-European trade this process is then verified by the Member state of origin and, if satisfactory, a health certificate and route plan (for live animals) is decided. For non-EU countries it is the economic operator importing the consignment into the EU or the BIP officials for Member States that enter information onto the TRACES in the first part of the CVED. The BIP then takes the ultimate decision as to whether or not to a CVED is validated for importation or for rejection of a consignment, after the veterinary checks have been carried out. TRACES allows for the collation of this information which is then sent to the veterinary authority of the destination Member State and informs of the checks carried out in the BIP. Economic operators can also consult this database<sup>47</sup>. The Commission audit service, the Food and Veterinary Office (FVO) performs audits in third countries and in Member States regarding the implementation of EU legislation.

The Commission has been looking at the creation of an EU database/IT system to support the implementation of the IUU Regulation. In 2012, the Commission recognised that several Member State authorities had indicated a desire for an EU wide database that would help to improve efficiency and the effectiveness of the catch certificate system and allow EU wide monitoring of trade and help to reduce fraudulent use of catch certificates (e.g. multiple imports under the same certificate in various Member States), and would enable national authorities to write-off quantities (in particular of

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<sup>47</sup> [http://europa.eu/legislation\\_summaries/food\\_safety/veterinary\\_checks\\_and\\_food\\_hygiene/f84009\\_en.htm](http://europa.eu/legislation_summaries/food_safety/veterinary_checks_and_food_hygiene/f84009_en.htm). TRACES system. [Accessed 02.10.2013]

processed products) stemming from the same catch certificate and imported in various consignments in different Member States.

In total, half of all Member States that responded to the Commission considered that a centralised database would help to reduce fraud; both in terms of reducing the inaccuracies over the quantities imported and to reduce the same catch certificate/processing statement being used multiple times. Other Member States (i.e., Finland, France, Latvia, Slovenia and UK) also considered that the system would facilitate better and more accurate verification of catch certificates and associated documentation. Other important considerations included a simplification, and therefore an increase in efficiency, of the administration processes (Germany, Denmark and Latvia) in addition to developing a system to create a uniform procedure that could be viewed as helping to level the playing field in the implementation of the IUU Regulation.

Some of the concerns expressed by Member States to developing a centralised IT database, include the difficulties in terms of the human resources and administrative burden (France and Lithuania), in addition to having to budget for the development of a new system (France, Lithuania and Slovenia). It is noted however, that France, Lithuania or Slovenia had not yet developed a system of monitoring and reporting catch certificates, such as that already undertaken by Denmark.

In terms of the key requirements of a database, Member States made it clear that the system should include all the key information from the catch certificates (Cyprus, Germany, Denmark, Finland, Poland, Sweden, Slovenia and Spain). In addition, Member States required that the database should store information on the catch certificates submitted for indirect importation and catch certificates relating to split consignments. This would also enable a countdown of the amount of products on individual catch certificates in relation to re-export to ensure that the amount exported does not exceed the amount imported. In addition, the database should automatically deplete quantities as being used from the total balance off a catch certificate and send automatic report to Member States and the Commission when balance reaches zero (Czech Republic, Denmark, Ireland, Poland and UK).

Other key requirements to be considered in the database would be the ability to identify the results of inspections of catch certificates for other Member States, share results of verification with other Member States and see rejected and cancelled catch certificates and the reasons for the rejection/cancellation (Germany, Denmark and Spain). It was also highlighted that the system should allow the transfer of data between Member States and each Member State should have access to all data in system 24/7 with real time updates (Finland, Ireland and Lithuania). However, issues of confidentiality and security should also be considered (Estonia, France and Latvia).

Given the requirements outlined above, Member States were asked about their willingness to contribute and support the development and maintenance of the database. In total, a third of Member States that responded that they were willing to help with the input of data and uploading relevant documentation (Czech Republic, Ireland, Lithuania, Latvia, Poland and Slovenia). In addition, Bulgaria, Germany and Sweden responded positively that they were willing to help with the management and development of the database. Member States also raised concerns over the cost and human resources and workload necessary to undertake the development of the database (Denmark, Estonia, Ireland, Lithuania, Spain and UK). Only Spain and Finland indicated that they would be completely unable or unwilling to help at this time.

Finally, it is important to establish what type of system, if any, Member States currently have in place and whether these might be coherent with the proposals for a regional database. To date, Denmark, Germany, Estonia, Slovenia and Sweden all indicated that they were currently developing a system of their own. Of these however, only Slovenia had previously indicated they would be willing to help in the input of data, whereas Germany and Sweden were interested in helping to develop an EU wide system. In contrast, Bulgaria, Cyprus, France, Lithuania and Poland all indicated they did not have plans or have in development an IT system, or has a system that could be linked to an EU wide system. Spain, Ireland and the United Kingdom indicated that they already had an IT system in place, but did not indicate whether they would be able to connect to the EU wide database.

### **4.3 Third Countries**

A number of third countries have developed a range of IT systems to help manage export documents, which include EU catch certificates. The following section provides an overview of some of the common systems available to help third countries validate catch certificates for export and verification

for Member States. A number of other schemes are currently in operation, including Faroe Islands, Republic of South Africa, Greenland and New Zealand.

### Norway

In accordance with the EU-Norway agreement on IUU, the EU catch certificate can be validated and transmitted electronically. As such, all documents are signed electronically by the exporter and validating authority. There is therefore no stamp or handwritten signatures on documents. The original electronic version of the document and its signatures can be retrieved for verification by Member State competent authorities by entering the document number in the following webpage <https://www.catchcertificate.no/> (Figure 18).



**Vis utstedte og validerte dokumenter**

Vis sertifikat:

\* "Document security code":

Tast inn sertifikatets dokumentnummer

Tast inn "Document security code"

Vis

\* "Document security code" står på bunnen av det nye norske fangstsertifikatet utstedt etter 06.12.2011 og gjelder bare for dette dokumentet. La feltet stå blankt for de andre dokumenttypene.

- > [Vis skjema for fangstsertifikat](#)
- > [Vis skjema for landingsdokument](#)
- > [Vis skjema for produsenterklæring](#)
- > [Vis skjema for lagererklæring](#)

**Figure 18: Norwegian online database for validation and verification EU catch certificates**

### United States

Similar to Norway, the NOAA Fisheries Service Seafood Inspection Program (SIP), also known as U.S. Department of Commerce (USDC) Seafood Inspection Program, provides detailed instructions online for completing EU Export Certificates. They establish and implement a procedure which assures national uniformity in the completion and issuance of the IUU Catch Certificates and supplemental documentation through an online request system.

The system currently incurs a fee for a single certificate or the package of both catch and health documents. These documents can be requested electronically but only the catch certificate can be delivered electronically to the requestor at this time.

To request export certificates for products going to the EU, a requestor must enter a request for export certification through the SIP's online web-based request system. To access the system, the requestor must sign up for a user account by submitting an access request to the SIP online at <https://seafoodinspection.nmfs.noaa.gov/customer/customerlogin.html>.

Member State competent authorities can access the SIP verification website to ensure fishery products originating from the US are correctly validated prior to import (Figure 19).

**NOAA FISHERIES SERVICE**  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### Seafood Inspection Program Certificate Verification

This page is the official verification website of the U.S. Department of Commerce (USDC) Seafood Inspection Program. The Seafood Inspection Program's Verification system provides for online verifications of completed certificates issued by the Seafood Inspection Program. To use the system, you will need to know the Certificate Number, Inspector Number, Certificate Date and Species.

**INSTRUCTIONS:** For Certificate Verification, enter complete information in ALL of the following fields and press Submit.

This website is best viewed with IE 6 or IE 7. We have identified several features that do not work with IE 8 or other browsers. We will be addressing these issues as soon as possible. You may get more information on using IE 7 at [IE 7 Information](#), or to downgrade from IE 8 to IE 7 visit [IE 7 Downgrade](#).

**Please Note:** Not all certificates issued by the Seafood Inspection Program can be validated through this site. If you receive an invalid result, please contact the program.

**Certificate Number\***   
If applicable, and the certificate extension (e.g., -EU):

**Certificate Number Extension\***   
--SELECT CERTIFICATE TYPE--

**Inspector Number\***

**Certificate Date\***   
-- 2009 --

**Species\***   
If there are multiple species for a single certificate number, you must enter ALL species.  
Select species value(s) by highlighting the species from the Available Species box and clicking the > button to move the values to the Selected Species box.  
In order to select multiple species, hold down CTRL and click additional values.

**Available Species:**  
ABALONE  
ALASKA PLACE  
ALEWIVES  
ALLIGATORS  
AMBERJACK  
ANCHOVES  
ATKA MACKEREL  
BALLYHOD  
BARRACUDA  
BARRAMUNDI  
BIGEYE SCAD  
BLUEFISH

**Selected Species:**

\* Indicates a required field.

Footer: Fisheries Service, Information Quality, Feedback, About Us, Contact Us, News Room. Logos for NOAA and USDC.

**Figure 19: US online database for validation and verification EU catch certificates**

## Canada

Canada has developed a catch certification program (CCP) and was created in response to the EU IUU Regulation. It requires that fish exports to the EU are accompanied by a catch certificate issued by the competent authority in the country of origin. The catch certificate is validated and transmitted electronically.

**Fisheries and Oceans Canada**  
Pêches et Océans Canada

**Fisheries and Oceans Canada**  
[www.dfo-mpo.gc.ca](http://www.dfo-mpo.gc.ca)

[Français](#) [Home](#) [Contact Us](#) [Help](#) [Search](#) [canada.gc.ca](http://canada.gc.ca)

**Certificate Search Criteria**

Document No:

Security Code:

Version 5.4.78 Copyright © 2009 - 2013, Adharcas Consulting Inc. [Important Notices](#)

**Figure 20: Canadian online database for validation and verification EU catch certificates**

## 5 Implementation and use of information and cooperation mechanisms

### 5.1 EU Alert System

As stated under Recital 21 of the IUU Regulation, an EU alert system should be established to disseminate well-founded information, where appropriate, about levels of compliance by certain third countries with applicable conservation and management rules to assist control authorities within Member States in their tasks of monitoring the legality of fishery products traded with the EU in addition to forewarn EU operators. Chapter IV of the Regulation refers to the issuance of public alerts (article 23) and the action following issuance of alerts (article 24).

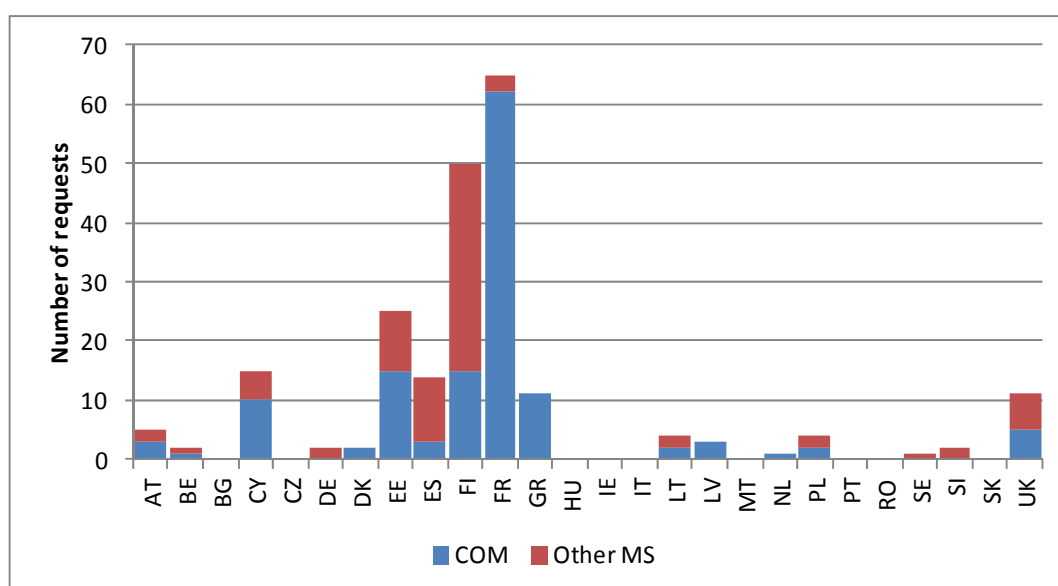
The EU Alert System is not operational at this time (cf. section 3.3.2).

### 5.2 Mutual Assistance

Under article 51(1) of the IUU Regulation, the administrative authorities responsible for implementation of the IUU Regulation in each Member State (refer to section 3.1.1.2 of this report) have a duty to cooperate with each other, the administrative authorities of third countries and with the European Commission to ensure compliance with it. Furthermore, under article 51(2), a system for mutual assistance shall be established, which will include an automated information system, which shall be managed by the European Commission. Unlike the EU Alert System, communications between relevant authorities as part of the mutual assistance are not made public, but remain confidential as part of a closed network to facilitate exchange of information to help control consignments of IUU fishery products, for example.

In accordance with article 39(1) and 51(2) of Regulation 1010/2009, each Member State SLO is responsible for application of mutual assistance requests and information received to ensure the effective implementation of the IUU Regulation may be communicated to a third country by a Member State via its SLO under a bilateral assistance agreement with that third country. In general, these are conducted through a system of email and telephone exchanges. Member States may also interact with each other on less formal channels for day-to-day exchanges which account for a smaller proportion of mutual assistance requests between Member States.

Information obtained from the biennial reports and returned Member State questionnaires show the number of mutual assistance requests that have been generated from Member States (Figure 21).

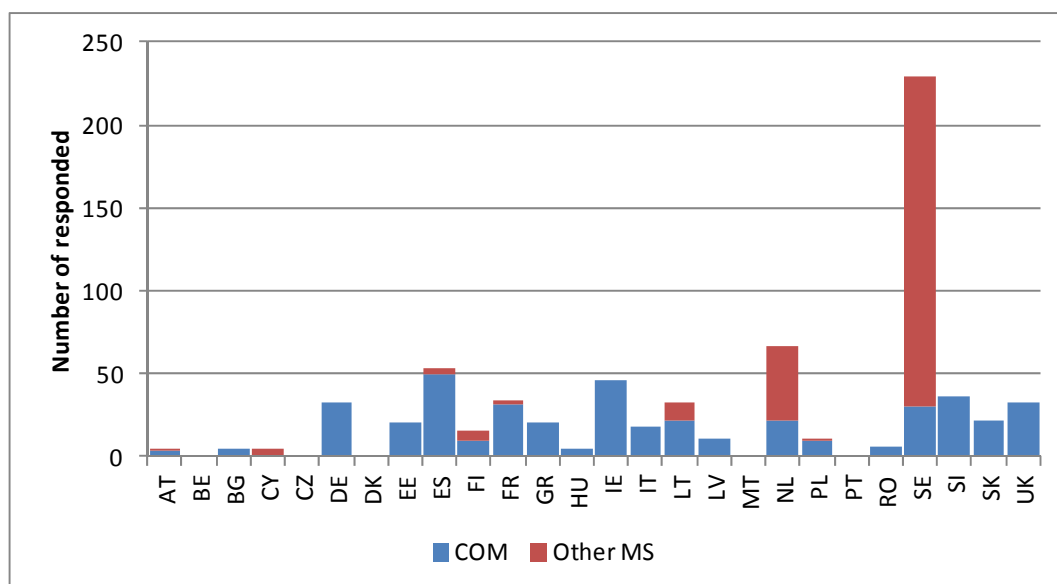


**Figure 21: Total number of mutual assistance requests generated by Member States between 2010 and 2012**

Data source: biennial reports and this study. Note: PT indicated that they had made several requests but provided no further details.

The results show that France made the highest number of requests to the European Commission between 2010 and 2012, whilst Finland, Spain and Estonia made the highest number of requests to other Member States. To date, little or no information is available on the number of requests generated by Member States to third countries under bilateral assistance agreements (article 51(2) of Regulation 1010/2009).

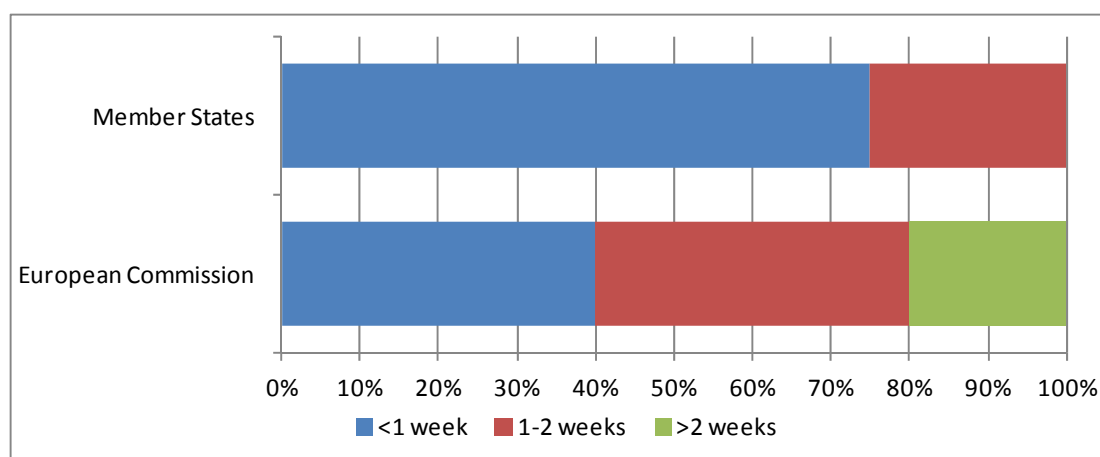
In addition to the number of mutual assistance requests made, results from the biennial reports and questionnaires show that Sweden made the highest number of responses to other Member States between 2010 and 2012 (Figure 22). No further details are available to determine which Member State Sweden had responded to and for what purpose.



**Figure 22: Total number of mutual assistance requests Member States have responded to between 2010 and 2012**

Data source: biennial reports and this study. Note: BE, MT and PT did not specify how many requests had been responded.

The average response time to process and respond to mutual assistance requests was determined for Member States and the European Commission (see Figure 23). From the limited information received, the results show that the majority of mutual requests from Member States were responded within a week (usually 1-2 days), whereas the European Commission typically took between 1-2 weeks and sometimes more.



**Figure 23: Response time to process mutual assistance requests (n = 6)**

Data source: this study. Responses obtained from AT, CY, DK, GR, LT and PL.

To fully interpret these results additional information is necessary on the nature of the request. For example, the response time may be dependent on the complexity of the request and/or may be

indicative of the level of resources available. The general performance can be mixed. Moreover, Spain confirmed that not all the responses from other Member States were sufficient. Some of them were incorrect or incomplete; and on one occasion a Member State declined to give a response due to confidentiality reasons; and two Member States never replied.

The efficiency and effectiveness of communication and coordination channels between Member States and third countries have previously been identified, such that personal email accounts are often used rather than generic mailboxes. This approach limits the distribution of lists more widely, and presents issues of long-term sustainability due to changes in personnel. Generic mailbox addresses, such as that used by many Member States, including Denmark and the UK, would be considered good practice for all communication between the SLO and national competent authorities.

## 6 Impact of the IUU Regulation on trade and trade patterns

This section seeks to identify whether the entry into force of the IUU Regulation as from 1st January 2010 has had an impact on trade of fishery products between EU operators and operators in third countries. The methodology for identifying potential impacts on trade include i) an analysis of trade intensity between 2007 and 2012 in order to detect any abnormal trend between the period pre-IUU Regulation and post-IUU Regulation that could be related to the entry into force of the instrument, and ii) an analysis of views of Member States and private operators. Views of Member States have been picked up from their biennial reports submitted to the Commission. Views of the private sector have been obtained through discussions centred round this topic.

### 6.1 Other regulatory instruments in relation with trade

#### 6.1.1 Compliance with European food law

Since 1991 the EU has required third countries which supply fishery products to the EU to implement a series of sanitary requirements regarding fishery products which are consigned to the EU market. The hygiene conditions are presently set out in EU legislation, and in particular technical conditions set out in the most recent form in the 2004 “hygiene package”<sup>48</sup>. According to Regulation (EC) 854/2004<sup>49</sup>, countries of origin must be on a positive list of eligible countries for the relevant product. The positive list is given by Decision 2006/766/EC<sup>50</sup>. It includes two sublists: one list (Annex 1 establishing the list of third countries from which imports are permitted of live, chilled, frozen or processed bivalve molluscs, echinoderms, tunicates and marine gastropods for human consumption, and a second list (Annex 2) establishing the list of third countries from which imports are permitted for any product not specified in Annex 1. Annex 2 lists ≈ 100 third countries while annex 1 currently lists 17 territorial entities also listed in Annex 2.

Decision 2006/766/CE has been amended about eight times between 2008 and 2012. Most amendments are to include new third countries or territories in particular in Annex 1 of the positive list, or to lift some restrictions imposed on products traded upon initial inscription on the list (i.e., Togo and Chile). However, the sanitary conditions of exports of particular fisheries or aquaculture products from certain third countries have prompted the Commission to adopt specific decisions requiring strengthened sanitary controls upon imports or temporary bans on imports of certain fisheries or aquaculture products<sup>51</sup>.

#### 6.1.2 Compliance with rules of origin

The EU has concluded numerous trade agreements with third countries that include preferential tariff regimes for fishery products under the condition that the products meet a set of eligibility criteria that define its originating status. Non-originating products can still be imported into the EU, but they will be subject to payment of the MFN custom duty that can be relatively high in some cases (i.e. 24% for processed tuna).

Rules of origin are designed to determine the commercial origin of a product in order that the benefits of the preferential market access granted to EU trade partners actually go to the targeted countries and not to other nations. Under most EU unilateral and multilateral trade agreements, the rules of origin confer to fisheries products a wholly obtained status as soon as catches are taken from the

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<sup>48</sup> Namely Reg (EC) 852/2004 ; 853/2004; 854/2004 and 882/2004

<sup>49</sup> Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption (OJ L 139, 30.4.2004, p. 206).

<sup>50</sup> Commission Decision of 6 November 2006 establishing the lists of third countries and territories from which imports of bivalve molluscs, echinoderms, tunicates, marine gastropods and fishery products are permitted (notified under document number C(2006) 5171) (Text with EEA relevance) (2006/766/EC) (OJ L 320, 18.11.2006, p. 53).

<sup>51</sup> Third countries concerned by restriction, additional measures or suspension in relevant Union acts include Myanmar, China, Guinea, Albania, Pakistan, Fiji, Peru, India, Bangladesh or Japan.



internal waters or the territorial sea. Beyond this limit, the wholly obtained status is granted to products caught by fishing vessels according to a number of criteria including conditions on flag and registration, vessel ownership or in certain cases crew composition. For processed fisheries products (headings 1604 and 1605), the products must have been manufactured using wholly originating products of Chapter 03, except in the case of the Pacific IEPA (the so-called global sourcing derogation). In general, rules of origin require documentation that may complement IUU documentation (*i.e.* elements of traceability to vessels at the origin of the catches).

There is a large number of agreements governing trade between the EU and third countries, and the situation is constantly evolving. A major change during the recent period was the end of the Cotonou agreement in 2008 granting unilateral zero duty preferences to ACP countries. However, most important ACP trading partners could maintain the preference by taking advantage of other preference schemes, including the EBA, GSP+ or EPA frameworks. Another potentially significant change was the end in 2009 of the tariff quota (12% instead of 24% MFN) granted to Thailand, Indonesia and Philippines for tuna cans<sup>52</sup>. For the major fishery products suppliers (*i.e.* Norway, USA, China, Iceland, Morocco), the situation in terms of tariffs has remained stable over the past few years.

The review of the history of EU trade agreements with trading partners will not be done here. However, in case a significant variation in trade flows with a given third country is identified, it will be necessary to verify if a change in the trade conditions between this country and the EU may not explain the variation to some extent.

## **6.2 Impact on trade measured from external trade statistics**

An impact of the IUU Regulation on trade can possibly be identified from analysis of external trade statistics for the periods prior and after the entry into force of the regulation (1<sup>st</sup> January 2010). Analysis of external trade data can support identification of abnormal trends, such as significant variations of volumes of particular products imported or unexpected shifts from a supplying country to another. However, further analysis is necessary to figure out if these changes in trade patterns are attributable to the implementation of the IUU Regulation, to the other regulatory instruments governing trade of fishery products or to market-related factors.

### **6.2.1 Selection of products in the Combined Nomenclature**

The IUU Regulation concerns trade of marine fishery products included in under Chapter 03 and Tariff headings 1604 and 1605 of the Combined Nomenclature, thus excluding fish meal and some other various products prepared from marine living resources<sup>53</sup>. The IUU Regulation does not concern aquaculture products, fishery products caught in freshwater environment, marine fishery products used for ornamental purpose and some particular marine species like scallops. Annex 1 of the IUU Regulation lists the products excluded from the definition of fishery products.

Therefore, analysis of trade data for the purpose of identification of effects of IUU Regulation must focus on products considered by this regulation. To this end, it is necessary to identify and remove from the list of items included in under Chapter 03 and Tariff headings 1604 and 1605 of the Combined Nomenclature those products that are not subject to submission of a catch certificate. To the extent this is possible according to the nomenclature of goods, the following products have been considered as not concerned by the IUU Regulation:

- Typically freshwater species explicitly described in the trade nomenclature: tilapia, Nile perch, catfish (*e.g.* panga), carp, generic “freshwater fish” nomenclature items, whether whole fresh, whole frozen, in fillets, or in preparation thereof. The 2012 Combined Nomenclature introduced a number of species, including freshwater species.
- Aquaculture products: the method of production of the fishery products appearing in the Combined Nomenclature is not specified. On the basis of expert knowledge, we considered salmonids (salmons and trouts) as mostly originating from aquaculture, and therefore

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<sup>52</sup> Council Regulation (EC) No 975/2003 of 5 June 2003 opening and providing for the administration of a tariff quota for imports of canned tuna covered by CN codes 1604 14 11, 1604 14 18 and 1604 20 70

<sup>53</sup> Other products obtained from marine living resources not considered by the IUU Regulation include CN 0511 91 10, 0511 91 90 (fish waste and offals), 1504 (fats and oils of fish and marine mammals), 1902 20 10 (pasta stuffed with fish products) & 2301 20 00 (fish meal)

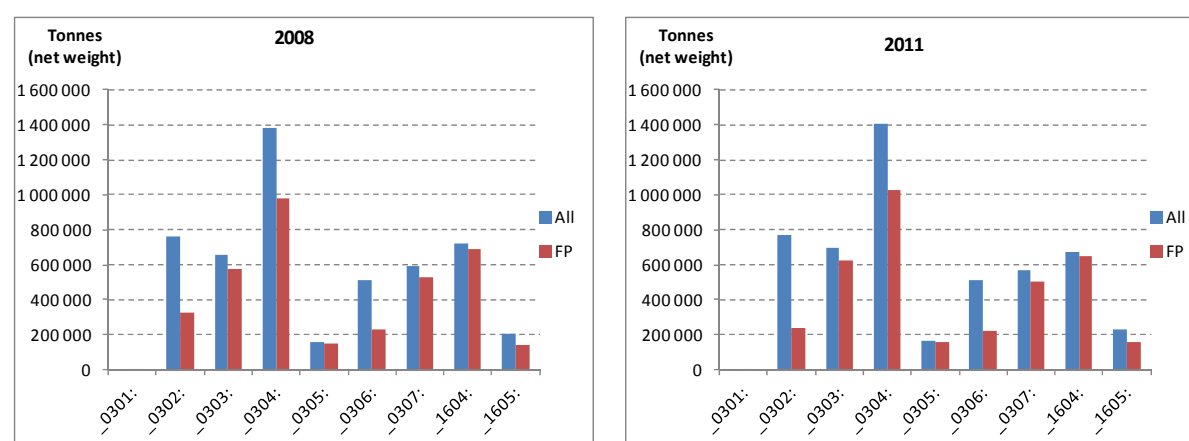
excluded them from the CN items covered by the IUU Regulation (whether whole fresh, whole frozen, in fillets, smoked or preparation thereof). Salmonids imported into the EU are 85% supplied by Norway and 6% by Faeroe Islands. FAO data confirm that the production of salmonids by these two countries is almost all originating from aquaculture. Choice was made also to exclude *Peaneus* shrimps (ex 03061792) as this tropical shrimp species is mostly produced by aquaculture. For the four largest EU suppliers of *Peaneus* shrimps (Ecuador, Bangladesh, India and Thailand), FAO data for these four countries indicate that aquaculture represents 80% of the production, fishing the remaining 20%. Our option eliminates some quantities of *Peaneus* that could have been subject to catch certification, but probably minor compared to trade of aquaculture *Peneaus* species. We also excluded external trade of oysters and mussels on the ground that these species are mostly aquaculture species. Imports of oysters and mussels from extra-EU countries are anyway very low.

- Miscellaneous species : snails have been excluded from 03 and 1605 product list as well as scallops explicitly excluded from the list of fisheries products through annex 1 of the IUU Regulation.
- Ornamental fish: while 0301 10 (ornamental fish, live) have been excluded from the products taken into consideration, we did not attempt to identify ornamental crustaceans or molluscs, etc. based on the assumption that trade of such species for ornamental purpose is minor compared to trade for human consumption.

Although potentially incorporating some bias (e.g. *Peaneus* shrimps), the selection of products made by scrutinising all CN 8 items and by eliminating the products described above is thought to better reflect trade of fishery products falling under the scope of the IUU Regulation.

The selection took due consideration of the changes in the combined nomenclature, in particular those introduced on 1<sup>st</sup> January 2012 with adjustments of codes according to the correspondence tables published by Eurostat. The newly created tariff heading 0308 for aquatic invertebrates other the molluscs and crustaceans has not been taken into account in the analysis to ensure consistence between time series and on the ground that it is a relatively minor commodity group (725 tonnes imported into the EU in 2012 from third countries).

As an illustration, the following figures compare the weights of products imported into the EU from extra-EU countries of all products falling under tariff headings 0301, 0302, 0303, 0304, 0305, 0306, 0307, 1604 and 1605 with weights of fishery products falling under the scope of the IUU Regulation for the same tariff headings for two years (2008 and 2011). Similar data for other years are not shown, but they are fully consistent with the figures presented for the two selected years.



**Figure 24: Comparison between weights of all products under tariff headings 0301, 0302, 0303, 0304, 0305, 0306, 0307, 1604 and 1605 imported from extra-EU countries (All) and weights of products classified under same tariff headings falling under the scope of the IUU Regulation (FP for fishery products)**

Data source: COMEXT

The following paragraphs explain the differences between total extra-EU imports of products included under the relevant tariff headings and the total extra-EU imports of what are considered as fishery products falling under the scope of the IUU Regulation.

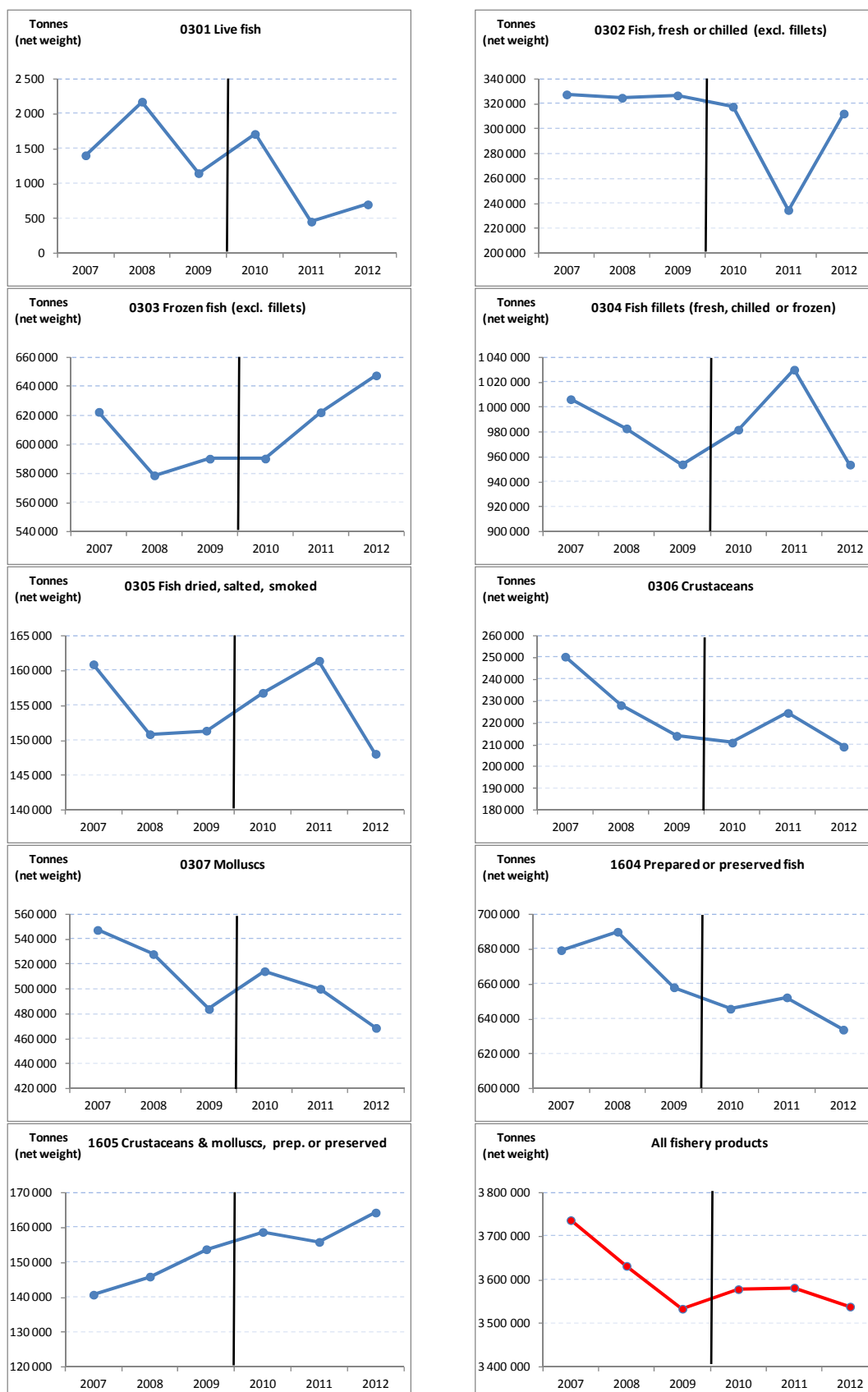
- For tariff heading 0302 (fresh or chilled fish), extra-EU imports of fishery products represent  $\approx 40\%$  of total extra-EU imports of all products classified under this tariff heading. The difference is explained by the exclusion of salmonids from the list of fishery products.
- For tariff heading 0303 (frozen fish), the ratio is of  $\approx 90\%$  on average. The difference is also explained by exclusion of salmonids from fishery products
- For tariff heading 0304 (fish fillets and other fish meat), which is the first category in weight of products imported into the EU, the ratio is  $\approx 72\%$  on average. The ratio is the result of the exclusion of salmonids but mainly from the exclusion of *Pangasius* which represented almost 20% of EU imports of 0304 products recently under the form of frozen fillets.
- For tariff heading 0305 (fish salted, smoked or in brine), average ratio is in the region of 97%. This category is a small component of extra-EU imports anyway.
- For tariff heading 0306 (crustaceans), the average ratio stands at  $\approx 45\%$ . This is a consequence of excluding *Peaneus* shrimps from the list of fishery products on the assumption that most extra-EU imports derive from aquaculture.
- For tariff heading 0307 (molluscs), the ratio is  $\approx 90\%$ . The difference is explained by exclusion from our list of scallops (mainly) but also snails, oysters and mussels.
- For tariff heading 1604 (prepared or preserved fish products), the ratio is of 97% on average. The small difference originates from the exclusion of salmonids preparations from the list of fishery products.
- For tariff heading 1605 (prepared or preserved crustaceans and molluscs), the ratio is  $\approx 75\%$ . The difference is explained mainly by exclusion of preparation of mussels from the list of fishery products.

In total, over the period 2007 to 2012, extra-EU imports of fishery products concerned by the IUU Regulation represented on average 74% in weight of extra-EU imports of products classified under Chapter 03 or tariff headings 1604 and 1605. In other words, the IUU Regulation did not concern  $\approx 26\%$  of extra-EU imports of products classified under these Combined Nomenclature items (in weight) during the same period. These observed differences were due to identifiable aquaculture products, freshwater products or other fishery products specifically excluded from the scope of the IUU Regulation.

### **6.2.2 Evolution of imports of fishery products into the Union from third countries over the 2007-2012 period**

An impact of the IUU Regulation on trade can be potentially detected by abnormal variations of volumes traded before the entry into force of the regulation and after, although other factors may also have influence.

The following graphs shows for each relevant tariff heading the evolution of imports (in net weight) from extra-EU countries over the 2007-2012 period. The solid vertical line denotes the entry into force of the IUU Regulation in 2010.



**Figure 25: Evolution of imports in weight of fishery products into the EU from third countries between 2007 and 2012 by tariff heading**  
Data source: COMEXT.

Table 3 shows the percentage variation of imports of fishery products from extra-EU countries i) between 2009 and 2010, *i.e.* between the last year before the entry into force of the IUU Regulation and the first year the Regulation entered into force, and ii) the average imports of fishery products from extra-EU countries over the triennial 2007-2009 period and over the 2010-2012 period. The volume quoted in the table is the average weight imported over 2009-2010.

**Table 3: 2009-2010 annual variation and 2007-2009 / 2010-2012 triennial variations in volumes of fisheries products imported into the EU**

Tariff Heading	Volume* (tonnes)	2009-2010	Average 2007-2009 / Average 2010-2012
0301 Live fish	1 400	49%	-39%
0302 Fish, fresh or chilled (excl. fillets)	320 000	-3%	-12%
0303 Frozen fish (excl. fillets)	590 000	0%	4%
0304 Fish fillets (fresh, chilled or frozen)	970 000	3%	1%
0305 Fish dried, salted, smoked	155 000	4%	1%
0306 Crustaceans	210 000	-1%	-7%
0307 Molluscs	500 000	6%	-5%
1604 Prepared or preserved fish	650 000	-2%	-5%
1605 Crustaceans & molluscs, prep. or preserved	150 000	3%	9%
<b>All fishery products</b>	<b>3 650 000</b>	<b>1%</b>	<b>-2%</b>

Data source: COMEXT.

\* Rounded average imports from extra-EU countries over 2009-2010

The data indicates that there are no noticeable trends in weight of fishery products imported between 2009 and 2010. For the main commodities identified by their tariff headings, imports rose (+2% for 0304, +6% for 0307), remained stable (0303) or slightly decrease (-2% for 1604, -3% for 0302). In total, imports of fishery products from extra-EU countries rose slightly between 2009 and 2010 (+1%).

As suggested by the graphs and by the comparison between the average triennial quantities imported before the entry into force of the IUU Regulation and the average triennial quantities imported after, there are some variations that are explained below for the main commodity groups imported into the EU from extra-EU countries.

Concerning fish fillets, fresh chilled or frozen (0304) that constitute the main commodity imported 'in weight into the EU from extra-EU countries, the volumes imported remain fairly constant between 2007 and 2011, with increase in trade noted between 2009 and 2010 (+3%). The substantial drop between 2011 and 2012 (-7%) is explained by decreased imports of frozen fillets of cod and Alaska pollock compared to 2011. In 2012, imports of 0304 fishery products are down to their 2009 level. However, average imports of 0304 fishery products from extra-EU countries over the 2010-2012 period remain slightly above average imports of same fishery products over the 2007-2009 period (+1%).

Concerning prepared or preserved fish (tariff heading 1604) which is the second largest commodity in weight imported into the EU from extra-EU countries, import figures show a consistent declining trend since 2008. Between 2009 and 2010, imports have decreased by -2%, and the comparison of average imports during the 2007-2009 period and same imports during the 2010-2012 period confirms a declining trend of -5%. The main factors explaining the trend are a marked decrease of canned sardines (-35% between 2007 and 2011) imported from Morocco (poor sardine campaign in 2010) and an erosion of imports of canned tuna (-10%) from extra-EU countries during the same period. An increase of imports of tuna loins from extra-EU countries between 2008 and 2012 (+34%) offsets the overall negative trend for prepared and preserved fish imported into the EU.

For frozen fish excluding fillets (tariff heading 0303), the third largest commodity imported from extra-EU countries over the recent period, trade figures indicates a consistent growth since a low in 2008. While imported quantities remained stable between 2009 and 2010, average quantities imported over the 2010-2012 period are 4% greater than average imports over the 2007-2009 period. All major products falling within this category (tuna, herring, mackerel) posted a positive growth of quantities imported from extra-EU countries during the 2007-2012 period.

Concerning molluscs (tariff heading 0307), the trend in imports from extra-EU countries over the 2007-2012 period is negative, with only an increase recorded between 2009 and 2010. According to Globefish, the decreasing quantities of squids and cuttlefish imported into the EU, mostly by Italy and Spain, are attributable to the economic crisis (less touristic demand) compounded by low production from the main fishing grounds (South-West Atlantic).

For fresh fish excluding fillets (tariff heading 0302), import data shows a decreasing trend over the 2007-2012 period with a significant drop between 2010 and 2011 followed by an increase to normal levels the year after. The main factor explaining the 2010-2011 decrease is a drop of imports from Norway of both herring and blue whiting fresh, resuming the year after.

Overall, and as shown by the evolution of imports of fishery products (all tariff headings aggregated), the 2007-2009 slowdown in quantities imported can be largely explained by the impact of the economic crisis on internal consumption (lower demand with a shift to cheaper fishery products). The following 2010-2012 period witnesses stagnating volumes imported close to the level reached in 2009. All other factors being equal, the entry into force in 2010 of the IUU Regulation does not appear to have disrupted import flows of fishery products from extra-EU countries up to a visible extent. In fact, imports from extra-EU countries increased by 1% in weight between 2009 and 2010 ( $\approx +45\,000$  tonnes in absolute value) and remained fairly stable after.

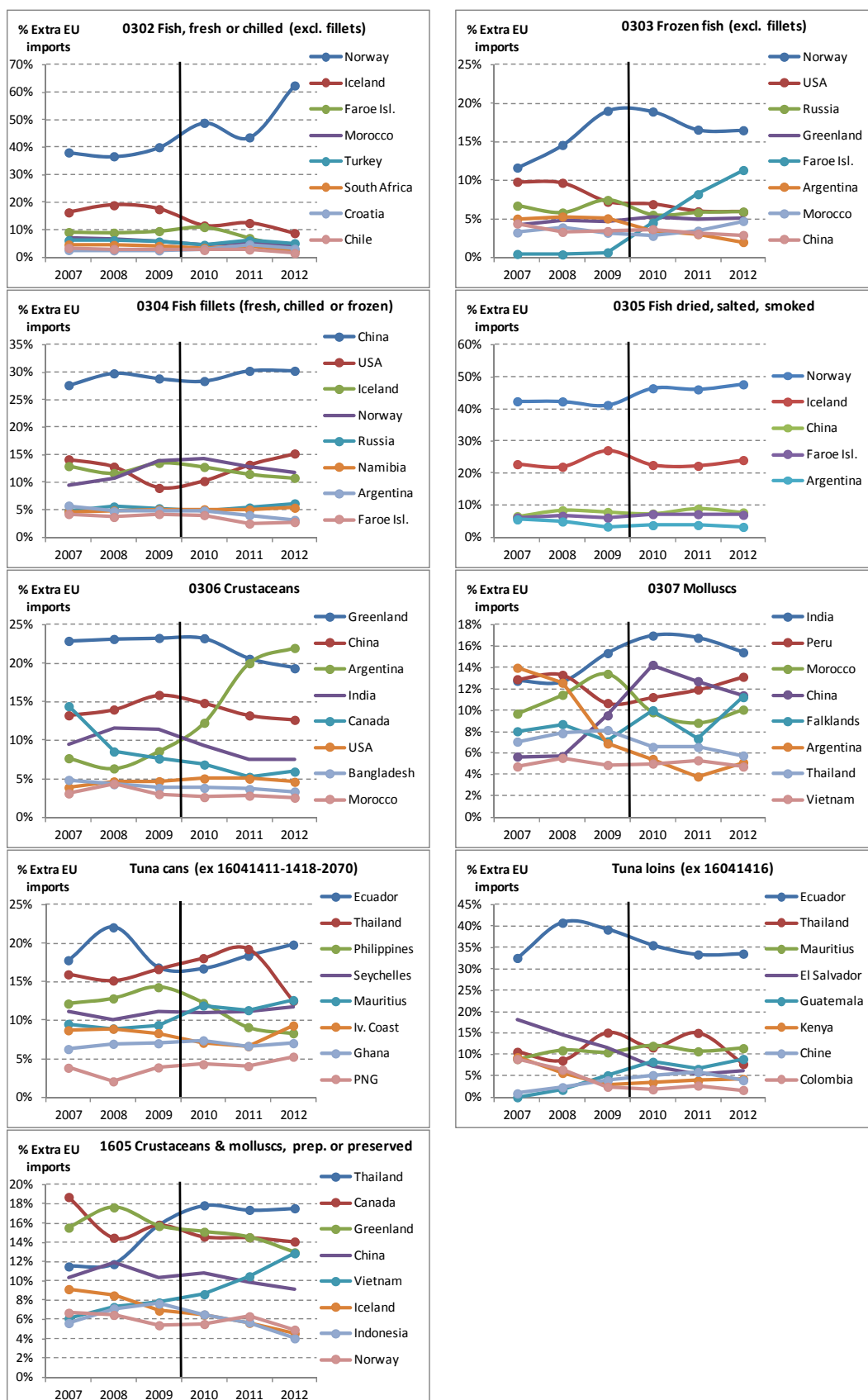
### **6.2.3 Evolution of the position of the main third country suppliers of fishery products**

Having established in the previous section that total volumes of fisheries products imported into the EU from third countries does not appear to have been disrupted by the entry into force of the IUU Regulation, this section aims to detect whether trade flows have been maintained through changes of suppliers or not.

Since approximately 100 extra-EU custom territories are theoretically potential suppliers of fishery products, the analysis focus:

- On the eight largest suppliers on average over the 2007-2012 period, or less when the supplying countries total more than 80% of the average quantities of fishery products imported over 2007-2012. The analysis seeks to identify abnormal variations in quantities imported from these suppliers between the period preceding the entry into force of the IUU Regulation (until end 2009) and the period immediately after (from early 2010);
- On all suppliers to identify those suppliers that have represented at least 1% of total imports of fishery products over 2009 or over 2010 (to remove anecdotal suppliers from the analysis) and for which significant year-to-year variations ( $\pm 50\%$ ) of volumes imported into the EU have been recorded between 2009 and 2010. Such year-to-year variation may reveal difficulties to comply with the IUU Regulation, but not only (e.g. compliance with other trade related instruments, market forces, situation of supply).

The next graphs show the % of fishery products imported into the EU from the main supplying third countries by tariff heading. Tuna products (e.g. cans and loins) have been considered separately due to the specificities of these products often manufactured from outsourced global supply.



**Figure 26: Proportion of fish products imported into the EU from the main supplying third countries by tariff heading**  
Data source: COMEXT

Concerning fish fillets, whether fresh, chilled or frozen (tariff heading 0304), the main eight main supplying countries that represented 84% of total imports in weight into the EU over the 2007-2012 period show relatively smooth evolutions of their market share between the pre and post IUU Regulation periods. Note that imports of fishery products from China comprise a significant portion of fillets prepared from whole frozen fish exported from Member States. The steady increase of USA market share is attributable to increased domestic availability of Alaska pollock. In the whole list of extra-EU suppliers of fish fillets, no abnormal trade variations have been detected (see criteria in the section introduction).

For frozen fish excluding fillets (tariff heading 0303), supply sources of the EU market are more diversified. The first eight third countries figured in the graph represent only 50% of average imports in weight over the 2007-2012 period. Among these countries, only Faeroe Islands show a significant variation of trade with a ten-fold increase of exports of frozen mackerel between 2009 and 2010. This ascending trend continues after. In the list of supplying countries, the following significant variations have been identified:

- Decrease of exports of whole frozen tunas (mostly yellowfin tunas<sup>54</sup>) from Thailand into the EU (from  $\approx 29\,000$  t in 2009 to  $\approx 2\,300$  t in 2010). Coincidentally, increase of exports of the same commodity from Philippines (from 7 000 t in 2009 to  $\approx 19\,000$  t in 2010), from Mexico (from  $\approx 4\,000$  t in 2009 to  $\approx 17\,000$  t in 2010) and from Netherlands Antilles (from  $\approx 10\,000$  t in 2009 to 18 000 t in 2010).
- Decrease of exports of small pelagics whole frozen (mainly mackerel) from Peru from  $\approx 10\,000$  t in 2009 to  $\approx 2\,000$  t in 2010.

Concerning fresh whole fish (tariff heading 0302), the supply from third countries is dominated by North Atlantic States (Norway, Faeroe, Iceland) which represent together 70%+ of extra-EU imports. No significant variations of trade between the periods pre and post IUU Regulation have been identified for these countries, nor for any other countries.

For molluscs (tariff heading 0307), the top-8 supplying countries which represent 76% of extra-EU imports over the 2007-2012 period shows large year-to-year variations. This is explained by the fact that molluscs species (mostly squids and cuttlefish) are short-lived species with abundances potentially subject to huge variations in relation with environmental conditions. The few pre and post IUU Regulation variations identified concern China and Falkland (+50% between 2009 and 2010) probably in relation with higher availability of cephalopods in the SW Atlantic<sup>55</sup>.

Concerning canned tuna (positions 16041411 / 16041418 and 16042070 of CN), none of the top-eight suppliers, which represent together 90% of imports into the EU have shown significant variations, suggesting that raw material compliant with the IUU Regulation could be sourced from 2010 onwards. The drop of Thailand market share is pronounced in 2012 (from 19% in 2011 to 13% on 2012). Meanwhile, the national production exported increased during this period<sup>56</sup>. The decrease of Thai tuna exports to the EU could reflect difficulties encountered by local processors to source IUU compliant raw material (Thailand has virtually no tuna fishing fleet). However, it could be also the result of a marketing strategy: the largest national tuna processing company has acquired in 2010 the EU owned company that was operating the tuna canneries in Seychelles and Ghana plus some sardine canneries in Europe, and the brands associated. Cans manufactured in these canneries can enter the EU market duty-free. At the same time, Thailand operators, whose competitiveness is eroded by a high MFN tariff on originating tuna cans (24%) for export to the EU could develop alternative markets in the Middle East and West Africa.

For tuna loins (position 16041416 of CN), the market shares of the extra-EU suppliers do not show significant year-to year variations between the periods pre and post IUU Regulation.

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<sup>54</sup> Mostly ex 03034212

<sup>55</sup> Source : Fisheries Statistics by Falklands Islands Government

<sup>56</sup> Exports of canned fish from Thailand steadily rose from 650 000 t in 2007 to 800 000 t in 2012. Source : Bank of Thailand



## 6.2.4 Evolution of exports of fishery products from the Union to third countries over the 2007-2012 period

As for import flows, export flows of fishery products broken down by tariff heading have been examined to try to detect any abnormal variation between the period pre-IUU Regulation and the period after.

The following graphs shows for each relevant tariff heading the evolution of exports (in net weight) from Member States to third countries over the 2007-2012 period. The solid vertical line denotes the entry into force of the IUU Regulation in 2010.

Table 4 shows the percentage variation of exports of fishery products from Member States to third countries: i) between 2009 and 2010, *i.e.* between the last year before the entry into force of the IUU Regulation and the first year the Regulation entered into force, and ii) the average imports of fishery products from extra-EU countries over the 2007-2009 period and over the 2010-2012 period. The volume quoted in the table is the average weight imported over 2009-2010.

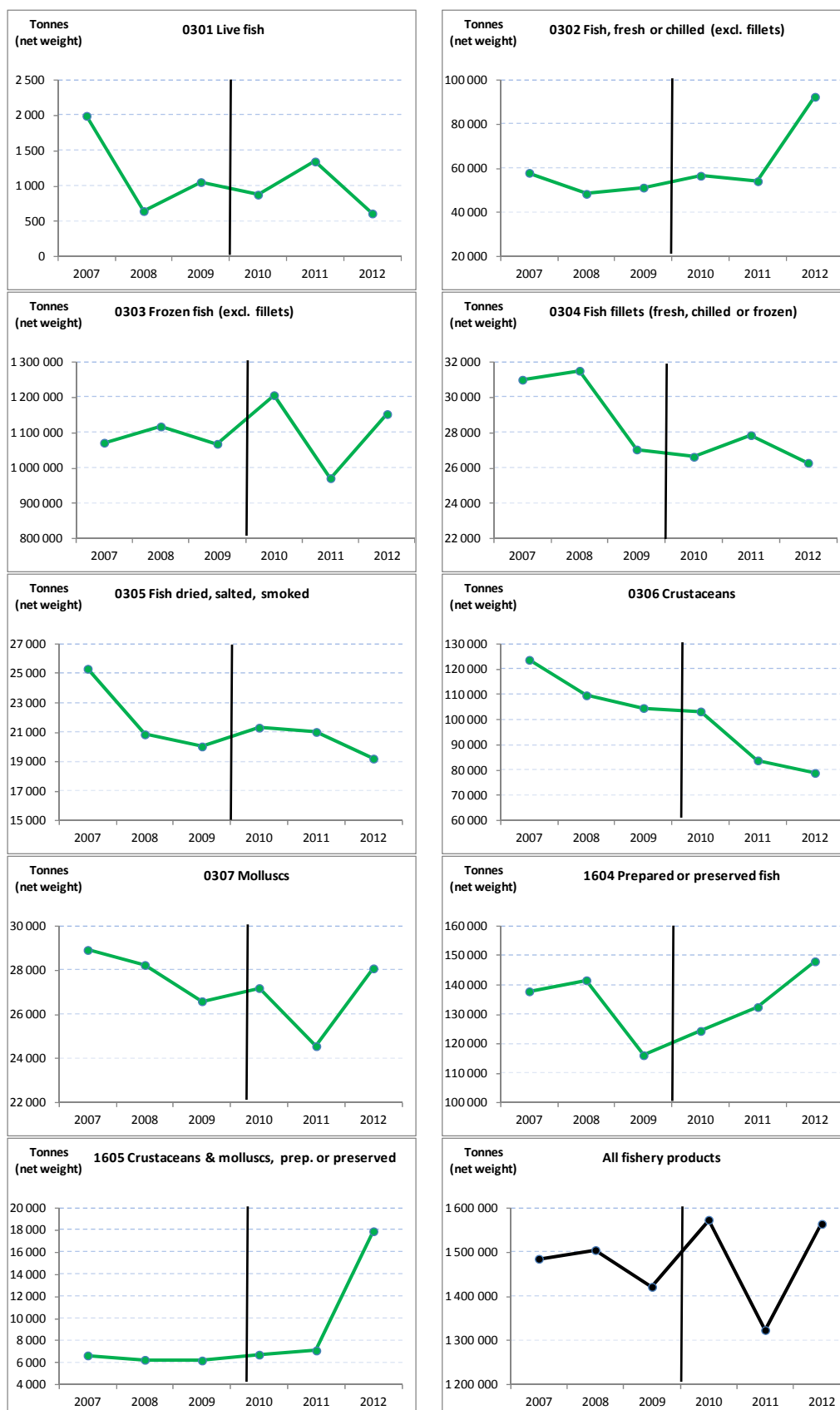
**Table 4: 2009-2010 annual variation and 2007-2009 / 2010-2012 triennial variations in volumes of fisheries products exported from the EU**

Tariff Heading	Volume* (tonnes)	2009-2010	Average 2007-2009 / Average 2010-2012
0301 Live fish	1 000	-17%	-23%
0302 Fish, fresh or chilled (excl. fillets)	55 000	10%	29%
0303 Frozen fish (excl. fillets)	1 100 000	13%	2%
0304 Fish fillets (fresh, chilled or frozen)	25 000	-2%	-10%
0305 Fish dried, salted, smoked	20 000	6%	-7%
0306 Crustaceans	100 000	-1%	-21%
0307 Molluscs	25 000	2%	-5%
1604 Prepared or preserved fish	120 000	7%	2%
1605 Crustaceans & molluscs, prep. or preserved	6 000	9%	66%
<b>All fishery products</b>	<b>1 500 000</b>	<b>11%</b>	<b>1%</b>

Data source: COMEXT

\* Rounded average exports from EU to third-countries over 2009-2010

The data in Table 4 indicate that the entry into force of the IUU Regulation in 2010 was not accompanied by significant negative variations of volumes traded on the export market. The main category of products, frozen whole fish, which represents  $\approx 75\%$  of all exports of fishery products over the 2007-2012 period even increased markedly between 2009 and 2010 (+13%). Other products categories have remained fairly stable between 2009 and 2010. Live fish (tariff heading 0301) is however an exception with a dramatic drop between 2009 and 2010, but on average low quantities ( $\approx 1\,000$  t). The variations for this category are explained mostly by erratic quantities of live bluefin exported annually.



**Figure 27: Evolution of exports in weight of fishery products from EU to third countries between 2007 and 2012 by tariff heading**  
Data source: COMEXT.

Frozen whole fish (tariff heading 0303) is the single largest commodity exported from the EU to third countries. This category includes two main broad groups of species: small pelagics (mackerel, herring, sardine, sprat, etc.) for an annual volume exported close to 700 000 t; and large pelagics (tunas) for an annual volume around 230 000 t. Small pelagics are exported for domestic consumption mainly to West Africa (Nigeria, Ivory Coast), Middle East (Egypt) and Eastern Europe (Russia, Ukraine, Belarus, etc.). Some small pelagics are exported to third countries (China, Thailand) for processing before re-export to EU for consumption. Whole frozen tunas are exported to third countries for processing into cans (Seychelles, Mauritius, Ghana and Ivory Coast) before re-export to EU for domestic consumption. Quantities of frozen fish exported posted an increase between 2009 and 2010 (+13%) essentially explained by an increase of exports of mackerel, horse mackerel and sardine. The drop recorded between 2010 and 2011 is attributable to substantial decrease of availability of blue whiting in the North Atlantic (agreed TAC was the lowest ever in 2011).

Prepared or preserved fish (tariff heading 1604) is the second largest commodity exported from the EU in volume. However, it represents only 8% of total export trade of fishery products in volume. The main products exported are prepared small pelagics exported from EU Baltic States to Eastern Europe. The volume exported rose between 2009 and 2010 (+7%) and increase after 2010 to exceed in 2012 the 2007-2008 levels. There is no information to explain dramatic drop between 2008 and 2009, attributable to lower exports of prepared small pelagic to Eastern Europe.

Concerning molluscs (tariff heading 0306), the third largest commodity exported from the EU in volume, the main products are Northern shrimp (60% in weight of all molluscs exported) and Crangon (26%). Exports of Northern shrimps go mostly to Eastern Europe for domestic consumption and also to China and Thailand for further processing before re-export to Europe. Crangon shrimps are mostly exported to Morocco for processing before re-export to Europe. The evolution of export trade flows does not show any major disruption over the period, including between 2009 and 2010 (-1%). The sustained decreasing trend of exports of this category probably reflects the decreasing catches by EU vessels.

The total quantities of fish products exported from the EU to third countries logically mirror variations of the main category exported (frozen whole fish) with a 11% increase between 2009 and 2010 and an overall increasing trend interrupted in 2011 by lower quantities of blue whiting available. As for the import flow, there are no export trade disruptions identified over the 2007-2012 period that could suggest an impact of the IUU Regulation.

### **6.3 Impact on trade measured from the TRACES database**

For the purpose of this evaluation, the terms of reference included an analysis of TRACES data mainly to verify if the implementation of the IUU Regulation did not trigger changes in importing behaviour of operators in the Member States, revealed by modifications of importing routes presumably to avoid BIPs of certain Member States where controls are reported to be tight and preferably importing fishery products through BIPs of Member States known as possibly enforcing less stringently the IUU Regulation.

#### **Characteristics of TRACES data analysed**

DG MARE facilitated delivery of TRACES data to the consultants. The data requested from TRACES is as follows:

Destination country: the Member State final destination of the fishery products imported. TRACES data have been supplied for 12 Member States: Belgium, Bulgaria, Germany, Denmark, Spain, France, United Kingdom, Greece, Italy, Netherlands, Poland and Romania. These twelve Member States cumulate  $\approx$  90% of total extra-EU imports of fishery products and includes the top-eighth importing Member States (see Table 7).

For each destination country, a subset of data from TRACES was requested from the European Commission by the consultants that contained one line per consignment submitted for approval of health status to the BIPs with the following information:

- the BIP country and the BIP name: the BIP through which fishery products have entered the Union custom territory;
- the means of transport of the shipment and identification thereof (ship / aeroplane / road vehicle / other);
- physical check: whether or not a physical check has been carried out on the consignment;

- country of origin: third country from which the consignment is originating;
- country where consigned: third country where the shipment has been consigned;
- CN Code of the fishery products imported : the codes entered in the database include at the minimum the tariff heading (4 digits) and sometime a more developed CN codification (6 to 8 digits);
- net weight: net weight of the shipment expressed in kg;
- the use on the internal market : whether for human or animal consumption;
- status: "valid" for fishery products meeting health standards, "rejected" otherwise;
- the year to which the operation refer.

### **Results of the analysis**

For each of the 12 importing Member States for which TRACES data have been made available, Table 5 and Table 6 present:

- The weight in tonnes of extra-EU imports of the commodities over the 2009-2012 period and the evolution of quantities imported between 2009 and the average 2010-2012 (or 2010-2011 for France, Spain and Italy).
- The percentage of the weight of extra-EU imports entering the EU Custom territory through BIPs that are not located in the Member State in question compared to the total weight of extra-EU imports by this Member State. The percentage is presented for 2009 and for the 2009-2012 (or 2011) period.
- Identification of the % of extra-EU imports cleared by main other Member States BIPs. The indicator is presented for 2009 and for the 2009-2012 (or 2011) period.

For example, the first line in Table 5: Belgium imported 106 500 tonnes on average for extra-EU sources over the 2009-2012 period. Extra-EU imports decreased by 4% between 2009 and the average 2010-2012. In 2009, 3% of extra-EU imports destined to Belgium have entered the EU Custom territory through BIPs of other Member States. For the 2010-2012 period, the same proportion is 4%. In 2009, 1% of extra-EU imports entered through Netherlands BIPs, and another 1% through German BIPs. On average over the 2010-2012 period, 1% of extra-EU imports entered through Netherlands BIPs, and another 1% through German BIPs. Data are presented for two groups of commodities: fishery products of tariff headings 0302 to 0308 (mostly whole or filleted fishery products) and fishery products of tariff headings 1604 and 1605 (mostly prepared or preserved fishery products).

**Table 5: Indicators for fishery products of tariff headings 0302 to 0308**

Importing Member State	Average extra-EU import 2009/2012 (tonnes)	Extra-EU imports change over 2009- av. 2010/2012	% imported through foreign BIPs in 2009	% imported through foreign BIPs in 2010-2012	Main Member State BIPs 2009	Main Member State BIPs average 2010-2012	Comments
<b>BE</b>	106 500	-4%	3%	4%	NL 1% DE 1%	NL 1% DE 1%	No significant change
<b>BG</b>	11 637	-38%	2%	6%	RO 2%	RO 4% GR 2%	<b>Increase of imports through other Member State BIPs</b>
<b>DE</b>	433 420	-1%	14%	9%	BG 4% NL 1% BE 3% PL 3% LT 1%	BG 3% NL 2% BE 2% PL 1% LT 1%	No significant change
<b>DK</b>	410 666	-9%	7%	12%	DE 3% IS 2% PL 1% BE 1%	DE 9% PL 1% BE 1% NL 1%	<b>Increase of imports through DE BIPs</b>
<b>ES*</b>	879 541	+1%	10%	19%	PT 6% FR 1% GB 1%	PT 16% GB 1%	<b>Increase of imports through PT BIPs</b>
<b>FR*</b>	282 841	+5%	17%	17%	BE 15% NL 1%	BE 15% NL 1%	No significant change
<b>GB</b>	324 521	-6%	2%	2%	BE 1%	BE 1% NL 1%	No significant change
<b>GR</b>	46 121	-25%	2%	1%	IT 2%	IT 1%	No significant change
<b>IT*</b>	334 390	+3%	9%	7%	GR 3% SI 3% FR 1% BE 1%	GR 2% SI 2% FR 1% BE 1%	No significant change
<b>NL</b>	320 599	+8%	11%	11%	BE 7% BG 3%	BE 7% BG 2%	No significant change
<b>PL</b>	185 693	-3%	1%	4%	BG 1%	DE 2% BG 1%	No significant change
<b>RO</b>	20 141	-29%	1%	4%	BG 1%	BG 4%	No significant change

Data Source: COMEXT and TRACES database

**Table 6: Indicators for fishery products of tariff headings 1604 and 1605**

Importing Member State	Average extra-EU import 2009/2012 (tonnes)	Extra-EU imports change over 2009- av. 2010/2012	% imported through foreign BIPs in 2009	% imported through foreign BIPs in 2010-2012	Main Member State BIPs 2009	Main Member State BIPs average 2010-2012	Comments
<b>BE</b>	22 315	-5%	8%	10%	FR 5% BG 1% NL 1%	FR 4% ES 4% BG 2%	<b>Increase of imports through ES BIPs</b>
<b>BG</b>	732	-31%	0%	2%	--	GR 2%	No significant change
<b>DE</b>	84 614	-2%	4%	7%	NL 3% BE 1%	NL 4% BE 2% ES 1%	No significant change
<b>DK</b>	58 243	-1%	1%	7%	DE 1%	DE 6% ES 1%	<b>Increase of imports through DE BIPs</b>
<b>ES*</b>	145 725	+5%	2%	3%	PT 2%	PT 3%	No significant change
<b>FR*</b>	117 647	-6%	5%	8%	BE 4% ES 1% BG 1%	BE 4% ES 3% BG 1%	No significant change
<b>GB</b>	176 209	-3%	1%	1%	BE 1%	BE 1%	No significant change
<b>GR</b>	6 802	-7%	0%	0%			No significant change
<b>IT*</b>	117 175	+1%	1%	5%	ES 1%	ES 4% GR 1%	<b>Increase of imports through ES BIPs</b>
<b>NL</b>	67 844	+13%	10%	15%	BE 9% ES 1%	ES 9% BE 6%	<b>Increase of imports through ES BIPs</b>
<b>PL</b>	8 164	+1%	1%	6%	DE 1%	DE 6%	<b>Increase of imports through DE BIPs</b>
<b>RO</b>	5 547	-7%	2%	1%	BG 2%	BG 1%	No significant change

Data Source: COMEXT and TRACES database

For fishery products of tariff headings 0302 to 0308, the main significant variations are:

- for extra-EU imports of products into Spain, increased quantities entering the EU Custom territory through Portuguese BIPs, from 6% in 2009 to 16% on average over the 2009-2011 period;
- for extra-EU imports of products into Denmark, increased quantities entering the EU Custom territory through German BIPs, from 3% of total extra-EU imports in 2009 to 9% on average over the 2010-2012 period;
- for extra-EU imports of products into Bulgaria, more imports into other Member States. However, this change occurs during a period of dramatically decreasing extra-EU imports of the commodities (-31%) and concerns fairly low quantities;
- for all other Member States, no significant variations observed between 2009 and the 2010-2012 period. The importing routes remain globally identical;
- for all importing Member States, no other Member States BIPs that were used as main point of entry into the EU in 2009 have seen their activities decreasing significantly.

For fishery products of tariff headings 1604 to 1605, the main significant variations are:

- for extra-EU imports into Belgium, Italy and Netherlands, increased quantities entering the EU Custom territory through Spanish BIPs, in particular in Netherlands (from 1% in 2009 to 9% in 2010-2012);
- for extra-EU imports into Denmark and Poland, increased quantities entering the EU Custom territory through German BIPs. Change is + 5% for both Member States;
- for all other Member States, no significant variations observed between 2009 and the 2010-2012 period. The importing routes remain globally identical;
- for all importing Member States, no other Member States BIPs that were used as main point of entry into the EU in 2009 have seen their activities decreasing significantly.

Increase of traffic through Portugal for imports of fishery into Spain has already been raised by the Environmental Justice Foundation. In a recent report, the NGO, citing a press article, states that fishery products consignments for Spain are now preferably entering the EU through the Portugal BIP of Leixões instead of Vigo as a possible consequence of a more relaxed implementation of the IUU Regulation in Portugal. However, the press article cited by EJF<sup>57</sup> does not mention this apparent diversion of trade as an effect of the IUU Regulation, but as an effect of administrative inefficiencies in Vigo BIP. Another possible explanation is that the Port of Leixões has been modernised over the recent period and may now offer competitive port services comparatively to Vigo. Recent statistics<sup>58</sup> show that port traffic in Leixões has dramatically increased over the last few years for all types of cargoes.

Concerning increase of imports into Denmark entering the EU Custom territory through Germany, the change could be motivated by the fact that Danish customs charge an additional fee for control of IUU documentation, as mentioned by the Danish biennial report (see following section). However, it appears from TRACES data that the preferred alternative route would be through Germany and not through Finland as suggested by the Danish Authorities.

For processed products of tariff heading 1604 and 1605, TRACES data reveal that for at least three Member States (Belgium, Italy and Netherlands) more consignments enter the EU Custom territory through Spain, contradicting the view that Spanish BIPs are avoided by operators. The explanation could be that these Member States import more tuna cans from Central and South American countries (Ecuador in particular) than in the past, with shipments arriving mostly in Spanish ports. Diversion of trade to Denmark through Germany could also be a consequence of the fee policy of Danish customs.

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<sup>57</sup> [http://www.lavozdegalicia.es/noticia/economia/2012/07/03/8-pescado-destinado-vigo-acaba-leix-excesiva-burocracia/0003\\_201207G3P43993.htm](http://www.lavozdegalicia.es/noticia/economia/2012/07/03/8-pescado-destinado-vigo-acaba-leix-excesiva-burocracia/0003_201207G3P43993.htm) (accessed 29 July 2013)

<sup>58</sup> [www.apdl.pt](http://www.apdl.pt)

## 6.4 Views from Member States and industry on impact of the IUU Regulation on trade

### 6.4.1 Biennial reports of Member States

The template of the biennial reports submitted by Member States to the Commission included a question on whether authorities noticed a change of imports of fishery products since the introduction of the IUU Regulation. As suggested by the Commission, Member States analysed their trade data to detect any possible change.

The following table summarises the answers of Member States to this question. The table classifies the Member States by descending % of volumes imported from third countries in the Member State by comparison with total volumes of fishery products imported into the EU.

**Table 7: Summary of Member State responses within section 10 of the biennial report**

Member State	Extra EU imports* (2009-2010 in t)	% EU extra-EU imports	Cumulative %	Responded?	Response summary
ES	840 357	24%	24%	✓	No impact detected
UK	408 683	11%	35%	✓	No impact detected
DE	390 468	11%	46%	✓	Some trade flows apparently changed but no conclusion
IT	371 252	10%	57%	✓	No impact detected
DK	331 331	9%	66%	✓	Possible impact in relation with border fees
NL	286 620	8%	74%	✓	No impact detected
FR	265 761	7%	81%	✓	No impact detected
PL	150 721	4%	86%	✓	No impact detected
SE	132 451	4%	89%	✓	No impact detected
PT	92 948	3%	92%	✓	No impact detected
BE	63 618	2%	94%	✓	No impact detected
GR	48 212	1%	95%	✓	No impact detected
LT	42 021	1%	96%	✓	No impact detected
IR	27 659	1%	97%	✓	Short term impacts
RO	17 499	0%	98%	x	
FI	16 407	0%	98%	✓	More consignments
LV	13 835	0%	98%	✓	No impact detected
CZ	12 573	0%	99%	✓	Small changes in trade flows
BG	12 099	0%	99%	✓	No impact detected
EE	7 833	0%	99%	✓	Decrease of imports
CY	6 080	0%	99%	✓	No impact detected (short term only)
AT	5 393	0%	100%	✓	Imports of fresh fish ceased
SK	3 882	0%	100%	✓	No impact detected
SL	3 561	0%	100%	✓	No impact detected
MT	2 953	0%	100%	✓	No impact detected
HU	2 222	0%	100%	✓	No impact detected
LU	10	0%	100%	x	

Source: Member State biennial reports provided by DG MARE

\* Average imports of fishery products covered by the IUU Regulation over 2009 and 2010 in tonnes

Most Member States could not distinguish with some degree of certainty an impact of the IUU Regulation on import flows and among them, the main importers of fishery products (Spain, United Kingdom and Italy). Although, some Member States have noticed some short-term changes in trade



flows with certain suppliers, it was not possible to establish if this was a consequence of the IUU Regulation or other market forces. For example, Austria notes that imports of fresh fish ceased over the course of 2010 possibly as a consequence of the IUU Regulation but trade statistics for 2011 and 2012 not available at the time of the preparation of the National biennial report demonstrate that Austria actually tripled (2011) and then doubled (2012) the volumes of fresh fish of tariff heading 0302 imported from extra-EU sources compared to 2010.

Denmark and Finland both mention a possible impact on trade routes, with less consignments going through the Danish BIPs and more consignments entering the EU through Finland. According to Denmark biennial reports, this could be an adaptive response from traders to avoid custom fees imposed by Denmark and not by Finland.

#### **6.4.2 Views from the industry**

Private fishery product traders consulted in the frame of this evaluation are on the view that the introduction of the IUU Regulation did not impact their businesses. Some effects of the regulation have been felt during the period just following its entry into force essentially in relation with a learning process involving both the private sector and the administration as rules concerning catch certificates were not understood uniformly by all the parties, including the exporting party. However, the situation stabilized over the first half of 2010 and imports operations could be better organised with respect to the IUU documentation required. Private traders mention that this rule-setting exercise had a cost in terms of administrative burden. IUU certification has also a direct financial cost as custom agents charge verification of IUU certification in the documentation accompanying imports.

According to private traders, the IUU Regulation did not change the way of doing business. Requirement for IUU catch certificates is now included in the general conditions governing the import transaction. General conditions include documentation requirements (health certificate, proof of originating status if required, IUU catch certificate, invoicing) and products requirements (quality, grading, species, presentation).

AIPCE, the professional association grouping fish processors and fish traders at the EU level has been interviewed in October 2013. The association confirmed that in its view, the IUU did not have any impact on trade. This discussion confirmed what the association wrote in its annual publication (the WhiteFish study, version 2011) saying that it is *“pleased to say that the impact on day to day trade has generally not been disruptive once all the major fishing nations had signed up. Russia’s delay in introducing catch certificates until mid-February [2010] came during a peak fishing period and may have distorted trade. This and other early issues were resolved and on the whole the regulation has been adopted successfully by European processors and traders although not without an increase in the administrative burden and ultimately costs placed on businesses”*<sup>59</sup>. This consolidated view reflects the views of the private traders mentioned above: the IUU Regulation did not impact trade *per se* except in the short-term after the official entry into force of the legislation, but contributed to increase the administrative burden and costs of doing business.

Eurothon association has also been consulted. For this association, grouping EU interests in the tuna sector (shipowners, processors), the IUU Regulation does not appear to have an impact on EU tuna trade.

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<sup>59</sup> <http://www.aipce-cep.org/content/white-fish-study>

## **7 Coherence with other EU Instruments and Structures**

### **7.1 Policy coherence**

The implementation of the IUU Regulation takes place in the context not only of other relevant EU policies but also a number of other measures taken by the international community in connection with the fight against IUU fishing. This section briefly examines the extent to which the IUU Regulation is coherent with such policies and measures.

#### **7.1.1 Trade policy**

The EU's external trade policy is based around membership of the World Trade Organization (WTO) and the multilateral trading system that it supports. The WTO exists to facilitate the implementation, administration and operation as well as to further the objectives of a series of multilateral trade agreements annexed to the 1994 WTO Agreement. All 28 Member States are members of the WTO, established in 1995 but the EU negotiates and acts within WTO as a single body.

The IUU Regulation potentially raises a number of trade issues in terms of the compatibility with WTO Rules (in particular the extent to which the catch certification scheme, possible import bans and provisions on access to ports might be considered to be technical barriers to trade).

Although there has to date been no formal trade related challenge to the IUU Regulation it is also to be noted that the provisions on the listing of non-cooperating third countries have yet to be fully exercised. It is at the point where such a listing takes place that a challenge is more likely to emerge. The particular risk for the EU in terms of a challenge derives from the fact that the IUU was introduced as a unilateral measure. Unlike, for example, the right of a country to apply SPS measures, which are fully recognised under the international trade regime as a basis for imposing trade restrictions, trade measures designed to deter IUU fishing are not.<sup>60</sup>

Nevertheless, although the IUU Regulation was introduced unilaterally, care has clearly been taken by the legislator to ensure that it provides for transparent, proportionate and non-discriminatory measures. Moreover both the Control Regulation and the IUU Regulation impose obligations and penalties on EU flagged vessels and operators that are as strict as those imposed on operators from third countries. Finally, as will be seen below, the overall approach taken in the IUU Regulation is line with both global and regional measures taken at the international level albeit that its scope of application is more comprehensive. Therefore while the possibility of a challenge under WTO cannot be excluded, the regulation itself is currently believed to be WTO compliant.

#### **7.1.2 Development policy**

The EU's concept of Policy Coherence for Development (PCD) builds on work undertaken by the OECD and seeks to strengthen synergies between EU policies in areas other than aid and development objectives. In May 2005 the EU undertook commitments towards PCD in twelve areas including fisheries.

In that the catch certification scheme provided for in the IUU Regulation imposes additional obligations on flag States that might be proportionately more onerous for developing countries to comply with at first sight this might be seen to hinder the achievement of development objectives. On the other hand, though, given the purpose of the IUU Regulation is to prevent IUU fishing in general, including in the waters of developing countries, it can be seen to have positive impacts in terms of sustainable development. Difficulties in enforcing the catch certificate scheme in developing countries that seek to export fish and fisheries products to the EU highlight problems and challenges in those countries in terms of the implementation of effective monitoring, control and surveillance (MCS) systems.

In the case of such countries that also provide access to their waters for EU fishing vessels in the context of Fisheries Partnership Agreements (FPAs), which were introduced in 2004 seek to make an

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<sup>60</sup> Moreover there have been a number of WTO challenges to US trade measures relating to fisheries conservation and labeling measures including the well known 'Tuna Dolphin Case' which was brought by Mexico 1990 (and followed 21 years later by a further Mexican 'Tuna-Dolphin' case) and the 'Shrimp-Turtle' case brought by India in 1994.

active contribution to partner countries to promote sustainable fisheries management and development: although a financial payment is still made by the EU to the relevant coastal State, a portion is used for support to the implementation of a sustainable fisheries policy. Article 23 (d) of the Cotonou Agreement, which creates the current legal framework for relations between the EU and ACP countries, stresses the need for compatibility between fishing agreements and development. A recent progress report on PCD<sup>61</sup> noted FPAs represent a more 'development friendly' policy and that the steps taken at EU level to combat IUU fishing are important steps to avoid resources diminishing and a situation where developing countries lose potential catches and revenues. It is to be noted that the provision of technical assistance to developing countries, including assistance relating to strengthened MCS and efforts to tackle IUU fishing, is not limited to countries that have signed FPAs.

### **7.1.3 Food safety/health policy**

In terms of its substantive approach the legal regime foreseen by the IUU Regulation concerning the import of fish and fisheries products into the EU is entirely coherent with the EU food safety regime as regards certification procedures and the audit/inspection of competent authorities and establishments in third countries. The key point to note is that while there are obvious similarities between the two regimes the basic purposes that they seek to achieve are both different and complementary.

In terms of practical application, however, the only area where a greater degree of practical coordination might be improved, however, is as to the scope of the trans-European network for veterinary health for imports, exports and trade in animal and animal products, TRACES, provided for in the case of the food safety legislation. In brief rather than having two broadly similar reporting regimes in respect of a single consignment the question arises as to whether the reporting procedures could somehow be combined. Of course the scope of the two schemes is quite different. While the food safety scheme applies, notionally, from 'farm to fork' the scope of the IUU regime extends slightly further forward in time to the point at which fish are caught, in other words from 'net to plate'.

### **7.1.4 Customs**

The IUU Regulation is coherent with the existing customs regime<sup>62</sup>. On an operational level, customs are uniquely placed at points of entry to and exit from the EU. As such they are ideally located to implement border controls for commercial and trade policy, health and environmental requirements, the common agricultural and fisheries policies, the protection of EU economic interests by non-tariff instruments and external relations policy measures.

Further evidence of coherence is demonstrated by the use of the Combined Nomenclature (CN) in the IUU Regulation for the classification of fishery products which is also used to classify goods for customs purposes. The CN is based on the Harmonised Commodity Description and Coding System (HS) of the World Customs Organisation (WCO).

### **7.1.5 Measures taken to combat IUU fishing at the international level**

One of the first steps taken at the international level one with regard to the fight against IUU fishing was the adoption in 2001 by the Food and Agriculture Organisation of the United Nations (FAO) of the 'International plan of action to prevent, deter and eliminate illegal, unreported and regulated fishing' (IPOA-IUU). As noted in the preamble to the IUU Regulation the IPOA-IUU has been endorsed by the EU.

The IPOA-IUU was followed a few years later by the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing<sup>63</sup> (the PSM Agreement) which was adopted by the FAO Conference in 2009. The EU is a party to the PSM Agreement, which

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<sup>61</sup> Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions EU 2009 Report On Policy Coherence For Development, SEC(2009) 1137 final.

<sup>62</sup> Customs legislation: Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code with related amendments and decisions (OJ L 302, 19/10/1992, p. 1) and Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of the Community Customs Code with related amendments and decisions (OJ L 253, 11.10.1993, p.1).

<sup>63</sup> [http://www.fao.org/fileadmin/user\\_upload/legal/docs/1\\_037t-e.pdf](http://www.fao.org/fileadmin/user_upload/legal/docs/1_037t-e.pdf)

will enter into force following the deposit of the twenty-fifth instrument of ratification, acceptance, approval or accession.<sup>64</sup> The PSM Agreement, which is of global application, seeks to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures.

To this end the PSM Agreement requires, in outline, the prior designation of ports to which third country vessels may request entry, the prior authorization (or not) of port entry, control over the use of ports including for the inspection of landing, transshipping, packaging and processing of fish that have not been previously landed as well as for the provision of other port services as well as the inspection of vessels and appropriate follow up with the flag State. In other words the procedures laid out in the PSM Agreement are basically equivalent those set out in the IUU Regulation in terms of port entry and use.

The major difference between the IUU Regulation and the PSM Agreement concerns the issue of catch certificates, which are not provided for in the PSM Agreement. However although there is currently no formal global fisheries certification scheme equivalent to that provided for in the IUU Regulation, a number of regional fisheries management organisations (RFMOs) have already initiated similar schemes. These include Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), which has a long-established catch documentation scheme for tooth-fish<sup>65</sup>, and the International Commission for the Conservation of Atlantic Tunas (ICCAT), which also has a catch documentation scheme for blue fin tuna.<sup>66</sup> Of course the scope of the catch certificate foreseen under the IUU Regulation is much broader both spatially, in that the RFMO schemes apply only within their specific areas of application, and in terms of the species that are subject to those schemes.

## 7.2 Structural coherence

Consignments of fishery products entering the territory of the EU under the IUU Regulation are also subject to a number of additional control measures under separate customs and veterinary legislation, introduced under section 3.1.1. Examination of the coherence between these structures shows a number of important similarities and differences at an operational level. The main structures of interest are summarised briefly here (see Annex 4 for full table).

- **Product:** There are a number of products not covered by and hence not controlled in the context of the IUU Regulation (Annex I). In addition, controls on particular species (e.g. wild species vs. aquaculture) may create challenges in identification for IUU purposes, if required to undertake IUU controls. DNA sampling and training has shown to help to address this issue.
- **Designated EU ports:** IUU Regulation designate ports for landing and transshipment of fishery products by third country vessels, whereas Member States designate BIPs for consignments of fishery products from third countries which then are approved by the Commission under veterinary legislation, whereas goods can only be landed or imported at a place approved by customs and in the presence or with the authority of customs. There is good level of structural coherence between the locations of import.
- **Prior notification on arrival:** For veterinary controls, the person responsible for the consignment notifies the consignment one day before its physical arrival on the EU territory to the relevant border inspection post. The prior-notification is done with the first part of the Common Veterinary Entry Document (CVED) in the TRACES system, an IT system recording all CVEDs issued in border inspection posts, which is managed by the Commission (DG SANCO). Under customs controls, advance information relating to safety and security must be provided in electronic form to customs prior to the importation of goods into the EU. This advance information is provided by means of the submission in electronic form of an entry summary declaration otherwise known as the ENS. Under IUU legislation, third country fishing vessels should notify the designated Member

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<sup>64</sup> The EU was one of the earliest signatories to deposit its instrument of approval, on 7 July 2011.

<sup>65</sup> The scheme was established in accordance with Conservation Measure 10-05 and has been implemented since. The scheme has operated in an electronic format since 2003 which has been mandatory since 2010.

<sup>66</sup> Mention can also be made of the Commission for the Conservation of Southern Bluefin Tuna catch documentation scheme of 2010 which replaced the earlier Trade Information Scheme which dated back to 2001.

State port authorities at least 3 working days before the estimated time of arrival (this is reduced where fishery products enter via air, rail and road). There is no IT system to record fishery products under the IUU Regulation.

- **Verification performed by national authorities:** Control activities are carried out by all of the authorities predominately on the basis of risk analysis especially where specific risk criteria is not set down in legislation. In fact, the health and veterinary and customs authorities have well established and modern risk management techniques in place. While this established risk criteria will not be the same as that applied in the case of IUU, the controls carried out by the health and veterinary and customs authorities can and do assist with IUU controls.
- **Certificates:** Both IUU and veterinary certificates currently have a paper-based system, although the Commission can accept from third countries health certificates established, validated or submitted electronically or electronic traceability systems ensuring the same level of control by authorities. In addition, several third countries now chose TRACES to submit electronic health certificates to the border inspection post of arrival to increase efficiency and effectiveness. Under customs control, nearly all certificates are now automated and submitted electronically. Use of a paper-based certificate provides opportunities for fraud, particularly for split consignments. Moving towards an electronic based system would be expected to significantly increase efficiency and overall effectiveness of catch certificates.
- **Decision on consignment:** Under IUU, the Member State authorises the import in box 12 of the CC. Refusal of importation will be communicated by the Member State authorities to the flag State, processing State (where the case) and the European Commission. The product should be destroyed or can be donated to charity. Under veterinary controls, Member State BIPs authorise the import on the second part of the CVED. Refusal of importation will be communicated by the Member State authorities to the other Member States, BIPs and the European Commission. In cases of refusals where a serious risk for health is concerned, a 'Rapid Alert' message is issued which informs as well the competent authority in the third country of origin of the refusal. However, consignments can be returned to the third country of origin within a finite period, sent to another third country, transformed or destroyed. Customs will act on the basis of decisions made by the relevant authorities. Importations will not be allowed in the absence of valid catch certificates and valid CVEDs. Good communication and coordination must occur between fisheries and veterinary authorities to ensure IUU products are not released back into circulation.
- **Mutual Assistance:** An effective system of mutual assistance is a vital ingredient in the implementation of controls at import and export. Existing legislation provides fisheries, health and veterinary and customs authorities with a range of mutual assistance tools to assist with controls. This provides for a system of administrative cooperation between Member States authorities, third countries and the Commission. In the case of health and veterinary and customs authorities these tools are supplemented by automated information systems which are used for the sharing of information such as TRACES and the Customs Information System. The IUU Regulation provides for the setting up of a systematic and automated administrative cooperation and exchange of information concerning potential and detected IUU fishing, which include the exchange of information on request and on a spontaneous basis, requests to take enforcement measures and notification of instruments or decisions on request.

- **EU Alert System:** In addition to mutual assistance cooperation, early alert systems also exist for the purpose of highlighting cases of non-compliance with legislation in relation to products originating within the EU or from third countries. These alerts are issued through automated systems (TRACES, RASFF and Risk Information Form) in the case of health and veterinary and customs controls. The IUU Regulation provides for a public EU Alert System for the European Commission to publish alert notices, their updates and the final outcome of these verifications generated by these alert notices, although this system is not operational at this time.
- **IT Tools:** TRACES provide the health and veterinary authorities with a unique and a very comprehensive EU wide information system which is used for a variety of purposes. Customs use highly automated systems to record import and export activity and especially to assess risk. These systems are populated by the TARIC. On the other hand the systems used in IUU are in the main paper based and have been developed within Member States. While some limited automated systems do exist in Member States, there is still no common EU IUU computerised system in existence. Such a system would assist greatly with controls.

Member States have started to develop their own IT systems (e.g., Denmark, Germany and Spain), whereas others are still using more ad-hoc solutions (e.g., France).

## **8 Spill-over effects**

This section discusses the impact of the implementation of the IUU Regulation on awareness on IUU, the fight against it and national policy priorities and legislation with regard to the various stakeholders.

### **8.1 Member States**

Given that the regulation has only been in force since 2010, reports indicate that it has already started to change the behaviour and practices of IUU operators. This includes a decrease of direct landings in EU waters and an increase in the multi-modal transportation of fishery products. Further to this, it has been reported that changes have occurred to the final destination of imported fishery products within the EU.

A specific example to illustrate where the impact of the IUU Regulation was thought to have led to a significant reduction in IUU fish imports was provided for Spain. The increased level of port controls (mainly through catch certificate verifications) exercised in Las Palmas have resulted in a notable reduction in the number of reefers attempting to land IUU fish originating from West Africa. This has led to a decline in the number of reefers attempting to import fishery products into Las Palmas, although a diversion of trade through other softer Member State border controls could be a potential high risk without a uniform implementation of the regulation. The impact of the IUU Regulation on trade and trade patterns was presented in section 6, and showed it is difficult to link changes in trade patterns to specific IUU risks, as this can be attributed to many trade-related outcomes, such as increased port facilities or greater administrative efficiencies.

It is recognised that most Member States have now incorporated the main elements of the regulation into their national laws, helping to demonstrate a certain level of commitment and awareness of the IUU Regulation. A number of gaps and differences are believed to exist in the way individual Member States have developed appropriate control measures to implement the IUU Regulation that has currently prevented its uniform implementation across the EU and created a diversion of trade.

While an interruption of trade patterns may signify the IUU Regulation is having an impact, it is also recognised that diversion of trade can create economic losses to those Member States that effectively implement controls. With exception perhaps to Spain, examination of trade, trade patterns and markets has indicated that the control systems put in place by Member States to implement the IUU Regulation have not impeded legitimate trade of fishery products within the EU.

To date, both Spain and the UK are considered to have developed one of the highest levels of awareness of the IUU Regulation and have developed effective risk based assessment systems to combat IUU.

Overall, the perceived lack of a uniform implementation of the IUU Regulation in each individual Member State is considered to be one of the major hurdles impeding the IUU Regulation from reaching its full effectiveness at this time. These relate to specific key elements of the regulation, such as the IUU vessel list, the identification of countries considered non-cooperating in the fight against IUU fishing and the lack of an European Community IT system. It was also remarked that several Member States are deemed to have performed poorly based on several parameters, such as inspection means or control activities carried out.

### **8.2 Third Countries**

In comparison to Member States, the overall level of awareness of the IUU Regulation among third country coastal States is considered to be much lower, although this is increasing where Member States have requested catch certificate verifications and additional information. Further to this, the European Commission led numerous training sessions to various third countries prior to the IUU Regulation and subsequently led evaluation missions since its entry into force.

While the level of awareness is thought to be increasing, due to a general lack of transparency, it remains uncertain whether third countries have effective control measures in place. For example, it had been reported that Korean vessels fishing off West Africa have no operational VMS, and it remains uncertain how Korean national authorities can effectively validate their national catch certificates. These concerns are supported by the Commission Decision of 26 November 2013 on notifying the third countries that the Commission considers as possible of being identified as non-cooperating under the IUU Regulation, including Korea.

The IUU Regulation is the first EU legislative instrument to tackle IUU fishing through trade. While the limitations in the current paper-based catch certification scheme are recognised, implementation of the regulation requires a good level of governance and competence within third countries. It is currently perceived however, that the regulation has already promoted better governance for the elimination of IUU fishing by boosting international cooperation between importing and exporting countries, in order to tackle illegal fishing globally and prevent the import of IUU products into the EU market.

It has also been highlighted that several third countries have modified their policies and laws in order to be in compliance with the IUU Regulation and have access to EU markets. Given that the IUU Regulation has only been in force for four years, this is viewed as an important outcome.

Cooperation and synergies between key importing countries such as Member States and the United States have reinforced the impact of actions undertaken by the European Union, in particular international dialogue, exchanges of information and action against third countries that are potential candidates for its inclusion under the list of non-cooperative countries.

In addition, while the IUU Regulation may be helping to reduce the volume of IUU related fishery products entering the EU, some third countries are still considered to be less concerned if their products are obtained through illegal means, since operators will seek alternative markets.

### **8.3 Other**

Responses indicate that the performance of RFMOs to tackle IUU fishing has been weak. Currently there is deemed a general lack of clarity and effectiveness when it comes to the implementation of RFMO recommendations within the scope of IUU Regulation. In particular, but not limited to, the development of appropriated tools used to identify in real time imports from third countries that largely overshoot their quota allocation.

Several RFMOs are considering standardising catch certification schemes throughout different RFMOs. In considering this, it was suggested that, to a certain extent, that the EU catch certification system be replicated. If successful, coordination between several certification schemes offers the potential for all catch certification systems to be improved and a transition between a more uniform, and thus more effective, system worldwide.

Within the EU fishing industry, the requirement of catch certificates for fish products originating from third country imports is considered to be increasing as this now affects both retailers and producers. However, among the EU consumer market, the level of awareness is currently viewed as very low. This may start to increase in the near future as the level of awareness for other seafood-related initiatives, such as eco-labelling of sustainable fish products (e.g. Marine Stewardship Council) is continuing to grow, particularly with EU retailers.



## 9 Best practices

Throughout this study, various good or best practices have been identified to support better implementation in particular with a view to simplify and modernise processes and procedures. These may be basic procedural changes or more sophisticated IT tools.

We note some best practices currently implemented cut across several categories, including IT tools that are relevant to inspection and control, coordination, communication, catch certificate schemes, etc. For this reason we have provided the following single list of good and best practices.

- i. To promote sustainable and effective communication between Member States and third countries, all email addresses of SLO and NCAs should have **generic mailboxes** (e.g. UK, Denmark). This will facilitate information sharing and increase transparency.
- ii. To facilitate efficient communication between national authorities, a **single point of contact** within each authority should be designated to coordinate exchange of information.
- iii. Conduct regular meetings between Member State national authorities to **share practical experience** of implementation of the IUU Regulation with other Member States (e.g. DG MARE)
- iv. Create a **monitoring system** for road and rail and air freight that is integrated into a central risk based management system used by customs to address concerns that Member State terrestrial border controls remain a significant challenge (e.g. Poland).
- v. **Coordinated control** of release of goods for importation by customs on basis that catch certificates and CVED have been checked/ verified by respective NCAs (e.g. Spain), preferably at the same time to maximise efficiency (e.g., Netherlands).
- vi. The **import/export control IT systems** used by the respective Member State are populated with the appropriate profiles to ensure that customs do not release the goods prior to the checking of certificates (e.g., Spain, Denmark, Netherlands).
- vii. **Real time information and monitoring** on all vessels active / present within Member State's territorial waters for inspection and control activities, risk based management and verification and validation processes (e.g., all current Member States). Information such as vessel AIS can be used to monitor third country fishing vessels or containerised vessels in EU waters using a mobile device to increase efficiency and effectiveness of control measures.
- viii. To improve the functionality and effectiveness of the current SMS, develop a **standalone tool for SMS information** that can be interrogated for use with risk based management, performance review and review of IUU case histories (e.g. Denmark).
- ix. Maintaining a **record of inspection and control results to update risk management** system, reference tool for case histories, and to provide feedback for coordination purposes (e.g. Denmark).
- x. An **online verification tool** for catch certificates (e.g. Norway, Canada), promotes greater efficiency and effectiveness within national authorities. While several third countries have developed online verification checking systems, it would be more efficient to create a single EU tool that third country authorities could populate remotely. A single EU verification tool would simplify procedures and ensure a uniform standard to implement verification procedures.
- xi. In the absence of APEOs, greater efficiency on import controls can be gained from using risk based assessment to create an **import fast-track** for low-risk operators (with retrospective physical checking; e.g. France)
- xii. Develop specific units to provide **coordination** between national, regional and international authorities to implement IUU Regulation (e.g., Denmark, UK, Germany, Netherlands, Poland, France and Spain).
- xiii. Document the volume of product(s) to be re-exported from the total quantity originally imported to create a **record of catch utilisation to accompany each catch certificate** (e.g. splitting document, Netherlands). This procedure records the balance of fishery

products remaining on each catch certificate to prevent abuse of re-export validation system (e.g. quantity of products re-exported exceed original catch certificate).

- xiv. To maintain inspection performance, conduct **random checks** on consignments to ensure integrity and relevance of risk based management system (e.g., France, Netherlands).
- xv. Develop an IT tool to inform all competent authorities of the **status of a consignment** of fishery products. Spain has a national scheme to communicate between fisheries with customs authorities to determine the outcome of a control procedure and whether an IUU consignment was destroyed on refusal of import. There would be considerable benefit to extend this system on a regional basis so catch certificates could be monitored more effectively and reduce the risk of catch certificate duplicates from split consignments and increase effectiveness and relevance of transit procedures (e.g., TRACES system used by veterinary authorities). Alternatively, identify and determine the uptake of the quantity recorded in the catch certificate during verification checks to: identify and determine the uptake of the amount recorded in the catch certificate at national level, and to prevent importation of unreported fish associated with a specific catch certificate (e.g., Denmark).
- xvi. Conduct specialised training, where required such as DNA testing and forensic accounting (e.g. UK, Poland).
- xvii. **Information** on all vessels active within territorial waters and Member State EEZ to facilitate validation and verification processes (i.e. VMS, AIS), in addition to checking IUU activity and provides intelligence to inform risk based management (e.g. all current Member States).
- xviii. A **database of all vessel characteristics**, including unique vessel identifier (UVI) and hold volume size etc. Information provided is used to inform risk based assessment, which could be shared among all Member States (e.g. Spain).
- xix. Development of a **shared risk assessment and management system** for various authorities (e.g. Netherlands – PRISMA)
- xx. **Increased transparency** on outputs of EC missions to third countries for each Member State to provide intelligence for risk based management and targeted monitoring and surveillance. Alternatively, EC could make arrangements to populate a new EU database with results from missions/ audits for use by Member States. This would greatly simplify procedures and allow control over the information shared whilst facilitating increased relevance and efficiency that could be sustainable over the long term.

## 10 Conclusions

This study has provided an overview of the current state of play regarding the implementation of the IUU Regulation between various stakeholders, including Member States, European Commission and third countries. It is acknowledged that the regulation is still a relatively new tool to help fight against IUU fishing and promote the responsible and sustainable exploitation of living marine resources. The outcomes from this study should therefore be viewed as a single snapshot in time, from which Member States and other agencies are continually reviewing and updating their systems to ensure sufficient controls are in place that remain pertinent to the volume of fishery products traded.

In addition to obtaining a better understanding of the organisation of national authorities within each Member State, detailed information has been collected on the processes and procedures undertaken by Member States, European Community and third countries, including level of training and IT support tools. These have been used to help identify good and best practice to support a uniform implementation of the regulation across the EU.

An examination of the impact of the IUU Regulation on trade, trade patterns and markets has been made to look at the import behaviour of economic operators in Member States in addition to the awareness on IUU fishing of other stakeholders. The results have shown that the IUU Regulation has not caused any major disruption to trade patterns, nor substantially reduced the total volume of fishery products entering the territory of the EU.

The analysis has also identified some of the problems and technical difficulties with the implementation of the IUU Regulation, which provides an opportunity to review areas and methods for simplification of the processes and procedures that can facilitate legitimate trade.

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Council Decision 2009/821/EC of 28 September 2009 drawing up a list of approved border inspection posts, laying down the rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in TRACES (OJ L 296, 12.11.2009, p 1).

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Commission Regulation (EU) No 86/2010 of 29 January 2010 amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products and amending Commission Regulation (EC) No 1010/2009 as regards exchange of information on inspections of third country vessels and administrative arrangements on catch certificates (OJ L 26, 30.1.2010, p. 1).

Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007,

(EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1)

Commission Decision of 18 December 2009 designating the Community Fisheries Control Agency as the body to carry out certain tasks under Council Regulation (EC) No 1005/2008 (notified under document C(2009) 10155) (OJ L 338, 19.12.2009, p. 104).

Commission Regulation (EU) No 395/2010 of 7 May 2010 amending Commission Regulation (EC) No 1010/2009 as regards administrative arrangements on catch certificates (OJ L 115, 08/05/2010, p. 1).

Commission Regulation (EU) No 468/2010 of 28 May 2010 establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing (OJ L 131, 29.5.2010, p. 22).

Commission Regulation no. 86/2010 of 29 January 2010 amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products and amending Commission Regulation (EC) No 1010/2009 as regards exchange of information on inspections of third country vessels and administrative arrangements on catch certificates (OJ L 26, 30/01/2010, p. 1).

Commission Regulation (EU) No 202/2011 of 1 March 2011 amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products and amending Regulation (EC) No 1010/2009 as regards prior notification templates, benchmarks for port inspections and recognised catch documentation schemes adopted by regional fisheries management organisations (OJ L 57, 02/03/2011, p. 10).

Commission Implementing Regulation (EU) No 1222/2011 of 28 November 2011 amending Regulation (EC) No 1010/2009 as regards administrative arrangements with third countries on catch certificates for marine fisheries products (OJ L 314, 29/11/2011, p. 2)

Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p 1).

Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354 28.12.2013, p 22).

Commission Implementing Regulation (EU) No 137/2014 of 12 February 2014 amending Regulation (EU) No 468/2010 establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing (OJ L 43, 13.2.2014, p. 47).

## Appendix 1: Outline of methods

The activities to conduct the study were initiated in May 2013. This included an inception phase where the MRAG consortium team presented an outline of the approach to DG MARE. A range of information and data sources were identified to be collected from a variety of means.

- i. Desk research including data sources and information provided by DG MARE and other stakeholders, including Member State biennial reports;
- ii. Member State questionnaires developed by the consortium to target different national competent authorities responsible for implementing the IUU Regulation.
- iii. Member State case study visits comprising of interviews with officials from fisheries, customs and, veterinary and health control authorities responsible for implementing the IUU Regulation, and a practical demonstration of some of the procedures adopted by the Member State at designated ports and/or border inspection posts (BIPs) in order to implement the IUU Regulation.
- iv. Semi-structured interviews with key stakeholders including the Commission and other bodies such as economic operators and environmental non-governmental organisations (NGOs).

A review of relevant information on IUU fishing activity is essential to inform the study and ensure its relevance. Specifically, an examination of legal documents and policy has informed the study of the measures available to EU institutions and Member State authorities to combat IUU activity against which the assessments on implementation will be made. For example, fisheries, customs and health legislative frameworks share similar terminology such as 'transit', 'transshipment', 'importation', 'indirect importation', 'exportation' and 're-exportation' (see section 7.1.4). Other areas of similarity include the Approved Economic Operator (AEO) Certificate<sup>67</sup> which is heavily based on the customs Authorised Economic Operator (AEO) Programme; plus procedures of mutual assistance which also feature strongly in customs and health authority practices.

The potential impact of the IUU Regulation on trade and trade patterns was investigated from an analysis of several trade statistics, including COMEXT<sup>67</sup> database and extracts from the EC TRACES<sup>68</sup> database. COMEXT is an EU statistical database on trade goods managed by Eurostat, the statistical office of the European Commission. COMEXT provides information on the value and quantity of goods exchanged between the Member States of the EU (intra-EU trade) and between the Member States and third countries (extra-EU exchanges). In addition, DG SANCO has developed TRACES (Trade Control and Expert System<sup>69</sup>), a web-based veterinarian tool which can be used by Economic Operators and competent authorities to notify, certify, monitor imports, exports and trade in live animals and animal products. An extract of these data was provided by DG SANCO for further analysis.

Under article 55(1) of Council Regulation (EC) No 1005/2008, all Member States are required to transmit a report to the Commission every two years. On the basis of these biennial reports and its own observations, the Commission shall provide a report every three years to be submitted to the European Parliament and to the Council (Art. 55(2)). These Member State biennial reports have been provided to the team by DG MARE and provide a valuable source of background information for this study. The team has provided an executive summary of the information presented in the reports in Appendix 2.

To complement the existing data and information sources, additional information and data have been collected from relevant actors and stakeholders to both fill the gaps in the available quantitative data and to generate additional qualitative data.

The team prepared a series of questionnaires to distribute to relevant national competent authorities in each of 27 Member States. Due to the potential complexity of multiple authorities contributing to the

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<sup>67</sup> <http://epp.eurostat.ec.europa.eu>

<sup>68</sup> [http://ec.europa.eu/food/animal/diseases/traces/index\\_en.htm](http://ec.europa.eu/food/animal/diseases/traces/index_en.htm)

<sup>69</sup> [http://ec.europa.eu/food/animal/diseases/traces/index\\_en.htm](http://ec.europa.eu/food/animal/diseases/traces/index_en.htm)



implementation of the regulation at both a policy and/or operational level, separate questionnaires were developed and distributed to the Single Liaison Office (SLO) in addition to fisheries, customs and, veterinary and health authorities using the contact list provided by DG MARE. A total of 18 fisheries, 14 customs and 9 veterinary and health questionnaires were returned for analysis.

In addition to Member State questionnaires, seven case study countries were pre-selected by DG MARE: Denmark, France, Germany, the Netherlands, Poland, Spain and the United Kingdom. The Member State case study visit comprised of two components: first a formal meeting with national fisheries, customs and, veterinary and health authorities to discuss amongst other things, in-depth review of the roles and responsibilities of each authority to implement the IUU Regulation and the strengths and technical difficulties associated with this, and secondly a practical demonstration at either a designated port and/or BIP to better understand the processes and procedures put in place to implement the regulation at an operational level. The practical demonstration is particularly important to help identify good or best practices. The choice of each location was determined primarily by the size and volume of trade size at each port and/or BIP: Denmark (Aarhus, Esbjerg), France (Le Havre), Germany (Hamburg), Netherlands (Velzen and IJmuiden, Rotterdam), Poland (Szczecin), Spain (Vigo) and the United Kingdom (Felixstowe).

The team consisted of at least one fisheries and one customs expert. This was deemed important as the processes and procedures to implement the IUU Regulation within a Member State may be shared between different national authorities. Given the short timeframe available to conduct case study visits and the limited availability of stakeholders during July and August, it was not feasible to ensure the same key experts conducted all case studies.

A series of semi-structured interviews were undertaken with key stakeholders to better inform the current state of play of the implementation of the regulation. These included face-to-face meetings with relevant directorates of the EU (i.e., DG MARE, DG SANCO, DG TAXUD, DG TRADE and DG DEVCO) and a series of environmental non-governmental organisations (i.e., Environmental Justice Foundation, World Wildlife Fund for Nature, Oceana and Pew). Four Approved Economic operators (APEOs) were contacted to complete a short questionnaire on their experience of the IUU Regulation.

A separate semi-structured questionnaire was distributed to the European Fisheries Control Agency (EFCA) in Vigo, and followed up with a teleconference call in relation to their role in providing training to Member States with regards to the catch certification scheme and other support provided by the Commission to support effective and efficient implementation of the IUU Regulation.

## Appendix 2: Executive summary of Member State biennial reports

Article 55(1) of Council Regulation (EC) No 1005/2008 requires that every two years, Member States transmit a report to the Commission on the application of the Regulation. To aid Member States, the Commission elaborated a questionnaire to be used in connection with the biannual reporting. The questionnaire is detailed and deals with all the chapters of the IUU Regulation so that the Commission can get a precise description of how the first two years of application have been in order to report comprehensively to the European Parliament and the Council in 2013. The deadline for submission of the questionnaires covering the period 2010 and 2011 was 30 April 2012.

The following text and analysis is based on the Member States' reports for the period 1 January 2010 and 31 December 2011, and supporting Appendices to their submissions to the Commission, and allows for a mix of quantitative and qualitative findings and Member State views. All Member States (with the exception of Luxembourg which did not submit a report to the Commission, and Croatia which was not a Member State before 1<sup>st</sup> July 2013) submitted reports to the Commission as requested, and the following text is thus based on analysis of the 26 Member States' reports submitted. Many of the Member State reports/questionnaires submitted were only partially completed.

**Legal framework and administrative organisation (Sections 1 and 2).** Member States have in general made good progress in establishing both the legal and administrative frameworks necessary for the application of the IUU Regulation, in terms of creating or updating existing national laws to implement the IUU Regulation or issuing administrative guides for its application, and in allocating staff (around 500 staff in the EU as a whole) for the verification of catch certificates.

**Direct landings of third country fishing vessels (Section 3).** Member States reported a total of 4 283 landings and transshipments by third country fishing vessels between 1 January 2010 and 31 December 2011, and very few problems with third country fishing vessels when implementing articles 6 (prior notice) and 7 (authorisation) of the IUU Regulation. Member States generally reported that third country fishing vessels accessing their ports use the templates for prior notifications and pre-landing/pre-transshipment provided by the Implementing Regulation 1010/2009 or those used in RFMOs.

**Port inspections in accordance with Section 2 of the IUU Regulation (Section 4).** Member State reports suggest that more than 60% of landings by fishing vessels of third countries having access to Member State ports are inspected, but that only around half of the countries use risk assessment criteria for the port inspections. The number of infringements detected was small at less than 100 between 1 January 2010 and 31 December 2011, with infringements detected for just over 5% of the inspections completed.

**Catch Certification Scheme for importation (Section 5).** Member States reported that just over half a million catch certificates were presented to their authorities from 1 January 2010 until 31 December 2011, with just over 2 500 recognised Regional Fisheries Management Organisation (RFMO) catch certificates accompanying the imports. More than 30 000 processing statements under article 14(2) accompanied imports, with almost all countries retaining and recording information in the processing statements referring to the corresponding catch certificates. There were a total of just 13 requests to authorise Approved Economic Operators (APEOs), with 7 of these being authorised. A total of 9 270 re-export certificates were validated by Member State authorities, with 8 Member States reporting that they monitor if the catches for which they validated a re-export certificate actually leave the EU. Only 10 Member States reported that they have established Information Technology (IT) tools to monitor the catch certificates and processing statements accompanying import, with 7 include a module for re-exportation of imported catches. Finally with regards to the catch certification scheme for importation, 18 Member States reported that they implement the provisions regarding transit under article 19(2) at the point of entry or the place of destination.

**Catch Certification Scheme for exportation (Section 6).** Eighteen countries reported that they have established a procedure for validation of catch certificates for exportation of catches from their own vessels, and that 49 951 catch certificates were validated from 1 January 2010 until 31 December 2011. Seven Member States confirmed that they monitor that the catches for which they validated catch certificates actually leave the EU, and 5 countries reported that they have previously refused to validate a catch certificate. Six Member States reported that they had established IT tools to monitor the catch certificates validated for exports stemming from their own vessels.

**Verifications of catch certificates for importation and verification requests to flag States (Sections 7 and 8).** Almost all Member States reported that they had established a procedure for

verification of catch certificates for importation, with more than 280 000 catch certificates verified from 1 January 2010 until 31 December 2011, and 11 Member States reported that they use a risk assessment approach for verification of catch certificates. Nineteen Member States also reported that they also physically verify the consignments. A total of 1 586 requests for verification were sent to third country authorities over the two year period, with 12 countries reporting that they had to send a reminder in cases where requests were not responded to. For most requests, responses from third country authorities were sufficient and satisfactory enough when they were provided.

**Refusals of importations, trade flows, and mutual assistance (Sections 9, 10 and 11).** 12 Member States reported that they refused an import between 1 January 2010 and 31 December 2011, and 2 stated that operators contested the decision. In cases where imports were refused, some Member States destroyed the products, but most sent it back unless it had perished in which case importers were offered the choice of re-export or destruction, and in some cases goods were later released when relevant information was provided. Few countries reported any noted change of imports of fishery products after the introduction of the IUU Regulation. All Member States reported that they had replied to a mutual assistance message of the Commission, and around half of the Member States reported that they had sent a mutual assistance message to the Commission.

**Nationals (Section 12).** Later text in this Appendix provides examples of various ways in which action has been with regards to nationals involved in IUU fishing, and the measures taken to encourage nationals to notify any information of interest in third country vessels (article 40(1)). Seven Member States reported that they had endeavoured to obtain information on arrangements between nationals and third countries allowing reflagging of their vessels.

**Infringements (Section 13).** Twelve Member States reported infringements from 1 January 2010 until 31 December 2011, with the total number of infringements recorded over the period being 7 594. Fourteen Member States reported that they had applied or adapted their levels of administrative sanctions in accordance with article 44. Only two Member States reported issuing sightings reports over the same period, while 4 Member States reported receiving sightings reports for their own vessels.

**General difficulties and suggested improvements/changes, and other comments (Sections 14 and 15).** In reporting on the main difficulties encountered in implementing the catch certification scheme, Member States raised a large number of concerns and problems. In summary, the most common concerns were over the usefulness of the SMS, while Member States also highlighted the difficulties faced from a) a lack of clarity/comprehensiveness of the Regulation, b) difficulties in verification, and c) the number and quality of catch certificates being received. Proposed improvements and/or changes suggested by Member States generally related to solving these problems

### Appendix 3: Structural coherence between IUU Regulation, Food safety legislation and customs legislation

Subject	IUU Regulation	Food Safety Legislation	Customs Legislation
<b>Scope of the Scheme</b>	Introduce a system to combat illegal, unreported and unregulated fishing comprising a catch certification scheme for all imports in the EU, the possibility of black-listing IUU vessels or non-cooperating third countries, etc. The legislation applies both to Member States and Third Countries exporting fish/fishery products to the Union.	Ensure protection of human health and consumer interests relevant for production, processing and distribution of food, including fish/fishery products. The legislation applies both to Member States and Third Countries exporting fish/fishery products to the Union.	Ensure supervision of the Union's international trade, the implementation of the external aspects of the internal market, of the common trade policy and of the other common Union policies having a bearing on trade, and of overall supply chain security.
<b>Products covered</b>	Fishery products which fall under the Chapter 3 and Tariff heading 1604 and 1605 from the Combined Nomenclature of the Common Customs Tariff.  Exceptions – listed as Annex I to the IUU Regulation (mainly freshwater and aquaculture).	Fishery products as defined in Annex I to Regulation (EC) No 853/2003 and live bivalve molluscs, which fall under the Chapter 3 and Tariff heading 1604 and 1605 from the Combined Nomenclature of the Common Customs Tariff.  Exceptions – none.	Products falling under all of the chapters of the Combined Nomenclature of the Common Customs Tariff.

<b>Notification of Competent Authority from a third country</b>	<p>The third country notifies to the European Commission its competent authorities for the IUU Regulation (flag State notification - FSN) certifying that:</p> <ul style="list-style-type: none"> <li>a) it has in place national arrangements for the implementation, control and enforcement of laws, regulations and conservation and management measures which must be complied with by its fishing vessels;</li> <li>b) its public authorities are empowered to attest the veracity of the information contained in catch certificates and to carry out verifications of such certificates on request from the Member States.</li> </ul> <p>Each flag State will designate its competent authority/ies according to its national organisation structures (national, regional or local level). It must be a public authority empowered to attest the information on the catch certificate.</p>	<p>The third country notifies to the European Commission its intention to be included on the list of countries, from which imports of fishery products to the Union are permitted, and which is its competent authority(ies) responsible for the food safety legislation for fishery products throughout the production chain. The Competent Authority(ies) must:</p> <ul style="list-style-type: none"> <li>a) be a public authority guaranteeing that the relevant hygiene and public health requirements are met.</li> <li>b) be empowered, structured and resourced to implement effective inspection and guarantee credible health attestations in the health certificate to accompany fishery products that are destined to the Union.</li> </ul> <p>Each Third Country will designate its competent authority/ies according to its national organisation structures (national, regional or local level).</p>	<p>Not applicable in a customs context.</p>
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<b>Role of the European Commission in the notification</b>	<p>The Commission verifies the completeness of the information in the FSN and will publish the FSN on its website (<a href="http://ec.europa.eu/fisheries/cfp/illegal_fishing/info/flag_state_notifications.pdf">http://ec.europa.eu/fisheries/cfp/illegal_fishing/info/flag_state_notifications.pdf</a>) and in the Official Journal of the European Union, both having the same value.</p> <p>Where the information is not complete or where from publicly available information doubts exist on the compliance of a third country flag State with international fishing conservation and management measures, the Commission requests to complete and/or to clarify their relevant domestic legislation to ensure the accurateness of the certifications in the FSN. Publication will not occur until information is complete and Commission is satisfied with the answers received from the third country flag State.</p>	<p>The Commission verifies the completeness of the information and requests further information when it is incomplete. After its evaluation, the inspection service from DG SANCO, the Food and Veterinary Office located in Ireland, carries out an audit in the relevant third country.</p> <p>The third country will appear on the list in the Annex I and II to Commission Decision 2006/766/EC only if the audit demonstrates that the competent authority provides appropriate guarantees as specified in the EU legislation.</p>	<p>Not applicable in a customs context</p>
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<b>Competent Authorities in Member States</b>	<p>Each Member State designates its competent authorities for the verification of CC's for imports; the validation of CC's for exports and the validation and verification of re-export certificates.</p> <p>EU competent authorities may carry out any verification deemed necessary before they allow an import of fishery products in EU.</p> <p>EU Competent authorities may cooperate with other EU authorities (health, customs, etc.) or may request assistance in verification of CC to third country competent authorities.</p>	<p>Each Member State designates its competent authority responsible for enforcing food safety rules and establishing a comprehensive system of official controls to verify compliance with food law in accordance with article 4 of Regulation (EC) No 882/2004.</p> <p>The competent authority of each Member State may carry out any verification deemed necessary before they allow an import of fishery products in EU.</p> <p>The competent authority of each Member State may cooperate with other authorities in Member States (health, customs, etc.) and may request assistance in verification of the health certificate to relevant third country competent authorities.</p>	<p>The Customs Authorities in each Member State. Competence can also be designated to other Authorities in accordance with Member State legislation.</p> <p>In legislation, "customs authorities" are defined as <i>the customs administrations of the Member States responsible for applying the customs legislation and any other authorities empowered under national law to apply certain customs legislation</i></p>
<b>Designated EU ports</b>	<p>Member States designate ports for landing/transshipment of fishery products by third country fishing vessels.</p>	<p>Member States designate border inspection posts (BIPs) for import controls on consignments of fishery products arriving from third countries.</p> <p>The Commission approved the border inspection posts and publishes them in Annex I to Commission Decision 2009/821/EC.</p>	<p>Goods may be imported or landed only at a place approved by customs and in the presence or with the authority of customs. Goods landed contrary to this are liable to forfeiture. All goods, which arrive at an approved place, must be presented to customs. Designated ports are also likely to be customs approved places.</p>

<b>Prior notification of arrival</b>	<p>In general consignments of fishery products with CC's should be notified 3 days in advance of their arrival which also applies to third country fishing vessels landing fish in the designated Member State port. Prior notification forms are provided by the Implementing Regulation of the IUU Regulation.</p> <p>Shorter deadlines apply to freight arriving by rail, road or air.</p>	<p>The person responsible for the consignment notifies the consignment one day before its physical arrival on the Union territory to the relevant border inspection post. The prior-notification is done with the first part of the Common Veterinary Entry Document (CVED) in the TRACES system, an IT system recording all CVEDs issued in border inspection posts, which is managed by the Commission (DG SANCO).</p>	<p>Advance information relating to safety and security must be provided in electronic form to customs prior to the importation of goods into the EU. This advance information is provided by means of the submission in electronic form of an entry summary declaration otherwise known as the ENS.</p>
<b>Verifications performed by EU competent authorities in Member States</b>	<p>Document verifications (catch certificate information, accounts of operators)</p> <p>Product/consignment verifications</p> <p>Inspection of vessels, means of transport, storage places</p> <p>Based on risk assessment (if developed and notified to the Commission)</p>	<p>Each consignment from third countries is subject to import controls at BIPs, which consist of 100 % document and identity checks and a certain percentage of physical checks including laboratory tests. In case of unfavourable outcome of import controls, the frequency of physical checks has to be increased to 100 % for a certain number of consignments (risk assessment).</p>	<p>A wide variety of controls are performed in a consistent manner across the EU. These controls are principally based on modern risk management techniques.</p> <p>In addition, a specific role has been provided for customs in connection with the IUU Regulation and food and safety legislation by means of the TARIC. The TARIC sets out rules that apply to goods that are destined for either import into or export out of the EU.</p> <p>For fishery products, entities importing fish under Chapter 03 and under Tariff headings 1604 and 1605 of the Combined Nomenclature require a catch certificate in order for the fishery products to be cleared through customs.</p> <p>For products covered by CVEDs (including fishery products), valid CVEDs must also be presented in order for these products to be cleared by customs.</p>



<b>Listing of countries</b>	<p><b>Positive</b> – list of FSN, i.e. third countries that have notified their authorities (see above).  <b>Effect:</b> Imports allowed into the EU. <b>Means:</b> Information from the Commission, publication on website.</p> <p><b>Negative</b> – list of non-cooperating countries, i.e. identified by the Commission as failing to discharge the duties incumbent upon them under international law as flag, port, coastal or market State, to take action to prevent, deter and eliminate IUU fishing. <b>Effect:</b> Imports of fish products not allowed into the EU (plus other accompanying measures – article 38). <b>Means:</b> Proposal – Commission Implementing Decision (examination procedure), Final: Council Regulation (pending "lisbonisation" work).</p>	<p><b>Positive</b> – included in the list of eligible third countries from which fishery products and live bivalve molluscs are permitted according to the hygiene Regulations. <b>Effect:</b> The country is allowed to communicate to the Commission their list of eligible establishments. <b>Means:</b> Commission implementing Regulation/Decision (examination procedure), Art. 291(2) TFEU (pending "lisbonisation" work).</p> <p><b>Negative</b> – safeguard decisions for fishery products and live bivalve molluscs from individual third countries, which are not complying with the food safety legislation. <b>Effect:</b> Imports not allowed into the Union from that third country. <b>Means:</b> Commission implementing Decision (examination procedure), Art. 291(2) TFEU (pending "lisbonisation" work).</p>	<p>While the listing of countries is not relevant in a customs context, customs would nevertheless carry out their own targeting and checking, all of which would in the main be based on modern risk management techniques.</p>
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<b>Listing of vessels</b>	<p><b>Positive</b> – not direct under the IUU Regulation. Indirectly through certifications granted under the FSN (see above) and/or membership in Regional Fisheries Organisations (RFMOs). See also information on CC. <b>Effect:</b> Imports allowed into the EU.</p> <p><b>Negative</b> – IUU vessels list of the RFMOs and of the investigations carried out by the Commission. <b>Effect:</b> Imports of fishery products from these vessels are not allowed into the EU (plus other accompanying measures – article 37). <b>Means:</b> Commission Implementing Regulation</p>	<p><b>For Member States:</b></p> <p><b>Positive</b> – Member States approve and list themselves their freezer and factory vessels and administer their own lists. These lists can be accessed from a Commission website. <b>Effect:</b> Freezer and factory vessels cannot operate without such approval. <b>Means:</b> The legal basis in the hygiene Regulations.</p> <p><b>For Third countries:</b></p> <p><b>Positive</b> – Eligible third countries freezer and factory vessels are inserted in the list administered by the Commission. The list is published on the Internet and also included in TRACES. <b>Effect:</b> Imports into the Union are allowed. <b>Means:</b> The legal basis in the hygiene Regulations.</p> <p><b>Negative:</b> A more clear legal basis for delisting third country freezer and factory vessels not complying with all Union legislation is on the agenda for the revision of Hygiene Regulations.</p>	<p>While the listing of vessels is not relevant a customs context, customs would nevertheless carry out their own targeting and checking, all of which would in the main be based on modern risk management techniques.</p>
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<b>Certificates</b>	<p>Fishery products stemming from third countries cannot be imported without a catch certificate (CC) validated by a notified and published third country competent authority.</p> <p>The CC attests that the fishery products are legally caught. A model is laid down in the Regulation.</p>	<p>Fishery products and live bivalve molluscs from third countries (except fresh fish intended for human consumption) cannot be imported without a health certificate signed and stamped by the third country competent authority or a 'captain's declaration'.</p> <p>The certificate includes a public health attestation confirming that the fishery products are caught, handled, processed and transported in line with the requirements laid down in the Hygiene Regulations. The model health certificate is found in Regulation (EC) No 2074/2005.</p>	<p>A specific role has been provided for customs in connection with the IUU Regulation by means of the TARIC. The TARIC sets out rules that apply to goods that are destined for either import into or export out of the EU.</p> <p>For fishery products, entities importing fish under Chapter 03 and under Tariff headings 1604 and 1605 of the Combined Nomenclature require a catch certificate in order for the fishery products to be cleared through customs.</p> <p>For products covered by CVEDs (including fishery products), valid CVEDs must also be presented in order for these products to be cleared by customs.</p>
<b>Electronic Certificate</b>	<p>Presently a paper-based system. The Commission can accept from third countries CCs established, validated or submitted electronically or electronic traceability systems ensuring the same level of control by authorities.</p>	<p>Presently a paper-based system. The Commission can accept from third countries health certificates established, validated or submitted electronically or electronic traceability systems ensuring the same level of control by authorities. Several third countries chose TRACES to submit electronic health certificates to the border inspection post of arrival.</p>	<p>Practically all processes are now automated from the submission of advance information to the making of customs declarations (SADs).</p>

<b>Traceability information</b>	<p>The CC provides information regarding:</p> <ul style="list-style-type: none"> <li>• details of the vessel(s) that caught the fish – name, flag State, international identification numbers, license details, master;</li> <li>• details on the catch/fishery products – species, product code, catch area and date, weight, reference to applicable conservation and management measures; transshipment operations</li> <li>• supply chain information – exporter details, transport details, processing operation details, EU importer details.</li> </ul>	<p>Basic principle in article 18 of Regulation (EC) No 178/2002: one step backward and one step forward.</p> <p>Page 1 of the health certificate for fishery products and live bivalve molluscs and the 'Captain's declaration' provides information to identify and provide information about a consignment, including</p> <ul style="list-style-type: none"> <li>• Approval number of the establishment or factory/freezer vessel that processed the fish (but typically excludes details of the supplying fishing vessels)</li> <li>• Details of the fishery product (description and identification)</li> <li>• Supply chain information – exporter details, transport and loading details, sanitary conditions and EU importer details.</li> </ul> <p>The identification mark on the product does also contain traceability elements.</p>	<p>Advance information relating to safety and security must be provided in electronic form to customs prior to the importation of goods into the EU. This advance information is provided by means of the submission in electronic form of an entry summary declaration otherwise known as the ENS.</p> <p>Information on the goods is also provided by means of a manifest or an airway bill so as to facilitate customs supervision of the goods. Detailed information on the goods is also provided in the customs declaration (SAD).</p>
<b>Liability for the goods introduced in EU</b>	<p>The third country Competent Authority for validation of the CC and the importer in EU.</p>	<p>The food business operator and competent authority in the third country and the food business operator introducing the goods into the Union.</p>	<p>The importer or the entity acting on behalf of the importer or both (depending on the circumstances).</p>

<b>Decision of Member State authorities regarding a consignment</b>	<p>Member State authorises the import in box 12 of the CC. Refusal of importation will be communicated by the Member State authorities to the flag State, processing State (where the case) and the European Commission.</p>	<p>Member State BIPs authorise the import on the second part of the CVED. Refusal of importation will be communicated by the Member State authorities to the other Member State, BIPs and the European Commission. In such cases a 'Rapid Alert' message is issued which informs as well the competent authority in the third country of origin of the refusal.</p>	<p>Customs will act on the basis of decisions made by the relevant authorities. Importations will not be allowed in the absence of valid catch certificates and valid CVEDs</p>
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<b>On-the-spot missions</b>	<p>Carried out by the Commission to third countries or to Member States to verify implementation of the IUU Regulation.</p> <ul style="list-style-type: none"> <li>• Pre-mission: IUU questionnaire to be completed by the visited competent authority, analyse trade patterns and CCs</li> <li>• After mission: address shortcomings and ways for improvement</li> </ul> <p>If no improvement or cooperation from third country – identification for negative listing (see above).</p>	<p>Regular audits carried out by the Commission (FVO) to third countries and to Member States to verify implementation of the relevant Hygiene Regulations.</p> <ul style="list-style-type: none"> <li>• Pre audit questionnaire: to be completed by the visited competent authority, analyse the official control system, legal framework, listed export establishments, RASFF alerts, trade data etc</li> <li>• After mission: mission report describing the audit findings, shortcomings, giving recommendations to address the shortcomings and asking for specific actions. <ul style="list-style-type: none"> <li>• Publishing of the audit report and the action plan of the CA addressing the recommendations</li> <li>• Systematic follow up and where relevant, transfer to other services for enforcement action, if no improvement or no co-operation from the relevant third country, particularly within the framework of Regulation (EC) No 882/2004.</li> </ul> </li> </ul> <p>Specific missions carried out by the Commission (FVO) to third countries to provide technical assistance.</p>	<p>Customs Authorities are subject to on-going audits from Commission and Court of Auditors.</p> <p>Missions to third countries would be the responsibility of the Commission.</p>
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<b>EU Alert System</b>	<p>Possibility to issue public alerts when well-founded doubts arises regarding the compliance with applicable national or international fisheries rules by fishing vessels or fishery products from certain third countries.</p> <p>Alerts to be published on MARE website and Official Journal available to operators, authorities and other stakeholders.</p>	<p>Obligation to issue alerts in case of non-compliance of fishery products originating within the Union or from third countries.</p> <p>Alerts are circulated by the Rapid Alert System for Food and Feed (RASFF), which is managed by the Commission, to competent authorities in Member States and the third country concerned.</p>	<p>The Risk Information Form (RIF), part of the EU Customs Risk Management System, provides for the rapid, direct and secure exchange of risk information to support targeting of consignments for customs controls, and for the Commission to be able to disseminate information concerning EU-wide threats.</p>
<b>Emergency Measures</b>	<p>To be taken in case of evidence that a third country undermines the conservation and management rules of a RFMO for 6 months that can be extended to a new period of 6 months.</p>	<p>To be taken in case of evidence that a third country does not implement the requirements laid down in the Hygiene Regulations (safeguard measures).</p>	<p>Because customs are uniquely placed at points of entry and exit to and from the EU, they are often called upon to assist with the implementation of emergency measures in relation to the movement of goods and other measures.</p>

<b>Mutual Assistance</b>	<p>System of administrative cooperation between Member State authorities, third countries and the Commission for the effective application of the IUU Regulation.</p>	<p>System of administrative cooperation between Member State authorities, third countries, the Commission.</p>	<p>In the EU, formal structures exist for co-operation and sharing of information between customs. Council Regulation (EC) No 515/97, as amended, and the Naples Convention provide the legal basis for this co-operation which is used in the prevention, investigation and prosecution of infringements of customs legislation.</p> <p>In addition, an electronic Customs Information System (CIS) was established under the CIS Convention. Its aim is to assist in combating customs related crime by facilitating co-operation between customs. This common computer network set up and maintained by customs and the Commission is accessible through computer terminals in Member States and at the Commission.</p>
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## Appendix 4: List of persons consulted

Member State	Organisation	Date of contact
Denmark	Danish AgriFish Agency (AgriFish)	16/07/2013, 18/07/2013
	SKAT	16/07/2013, 17/07/2013
	Danish Veterinary and Food Administration (DVFA)	16/07/2013, 17/08/2013, 18/07/2013
	AgriFish	17/07/2013
France	Direction des Pêches Maritimes et de l'Aquaculture (DPMA)	13/08/2013
	Direction Générale des Douanes et Droits Indirects (DGDDI)	13/08/2013
	Direction Régionale des Douanes et Droits Indirects au Havre	08/07/2013
Germany	Bundesanstalt für Landwirtschaft und Ernährung (BLE)	30/07/2013, 31/07/2013, 01/08/2013
	Zoll	30/07/2013, 31/07/2013, 01/08/2013
	Health & Veterinary Authority: Behörde für Gesundheit und Verbraucherschutz (VEA)	31/07/2013
	DE-APEO - 001 Frozen Fish International GmbH	09/08/2013
	DE-APEO - 002 Kagerer & Co. GmbH	09/08/2013
Netherlands	NVWA Consumer & Safety Division, Ministry of Economic Affairs	13/08/2013, 15/08/2013
	Douane	13/08/2013, 15/08/2013
	NVWA Veterinary & Imports Division	13/08/2013, 15/08/2013
Poland	Ministry of Agriculture and Rural Development Fisheries Department	20/08/2013, 21/08/2013, 22/08/2013
	Polish Customs Service (PCS), Szczecin	20/08/2013, 21/08/2013, 22/08/2013
	Sanitation & Veterinary Authority	20/08/2013, 21/08/2013, 22/08/2013
	Regional Sea Fisheries Inspectorates (RSFI):	21/08/2013, 22/08/2013
Spain	MAGRAMA	22/07/2013,

Member State	Organisation	Date of contact
		23/07/2013, 24/07/2013
	Departamento de Aduanas	22/07/2013, 23/07/2013, 24/07/2013
	Ministerio de Sanidad	22/07/2013, 23/07/2013,
	MINHAP	24/07/2013
United Kingdom	Suffolk Coastal Port Health Authority	13/08/2013
	Marine Management Organisation (MMO)	13/08/2013, 14/08/2013
NGOs	Environmental Justice Fund	12/07/2013
	Oceana	25/07/2013
	PEW	26/08/2013
	WWF	30/08/2013
European Commission	DEVCO	27/09/2013
	MARE	23/07/2013
	SANCO	24/07/2013
	TAXUD	28/08/2013
	TRADE	29/08/2013
	EFCA	25/09/2013
APEO	Kagerer & Co. GmbH Germany	09/08/2013
	Frozen Fish International GmbH D Germany	09/08/2013
	VOG Einfuhr und Großhandel mit Lebensmitteln und Bedarfsgütern AG Austria	28/08/2013
	Heiploeg B.V Netherlands	28/08/2013