

**ISSUE BRIEF**

# Improving performance in the fight against illegal, unreported and unregulated (IUU) fishing

## Germany – A major player in the global fight against illegal fishing



# A review of member state implementation of the EU IUU Regulation<sup>1</sup>

## Introduction

Germany is one of the leading importers of seafood products in the EU and globally (see **box “Germany’s key role”**). As such it has a vital role to play in the success of ambitious EU legislation to combat illegal, unreported and unregulated (IUU) fishing (the EU IUU Regulation). This global problem is recognised as a threat to food security and marine health.

This factsheet assesses Germany’s fulfilment of key aspects of the Regulation, based on a comparison of activity reports submitted by all member states to the European Commission since the Regulation came into force in 2010. In light of Germany’s role as a leading importer of seafood, this factsheet focuses primarily on Germany’s implementation of the EU IUU Regulation’s catch certification (CC) scheme with respect to imported products. The CC scheme is one of the key pillars of the Regulation, which aims to prevent the entry of IUU fish into the EU market.

## How the EU IUU Regulation works

The EU IUU Regulation requires all fisheries imports into the EU to be certified as legal (by the flag State<sup>2</sup> of the fishing vessel) via import documents known as catch certificates (CC). Member states are required to ensure these certificates are valid and must inspect at least 5% of all fish consignments landed in their ports by non-EU fishing vessels.

In addition, third (non-EU) countries exporting fish to the EU can face warnings (yellow cards), which may ultimately lead to exclusion of their seafood from the EU market (red card), if they are assessed as failing to combat illegal fishing in line with international requirements. This is known as the “carding” process. To date, carded countries have included major seafood exporters such as Thailand and Taiwan.

As most major EU importing countries import hundreds of thousands of tonnes of fisheries products per year, and process tens of thousands of CCs, it is not possible for authorities to verify the legal origin of each and every consignment received. Member states are therefore required to focus enforcement resources on products most at risk of being derived from IUU fishing. The EU IUU Regulation provides the basis for rigorous and harmonised risk assessment procedures with which to do this.<sup>3</sup>

## Key Points

Germany receives some of the highest numbers of catch certificates for fisheries imports under the EU IUU Regulation, many of which are associated with complex and lengthy supply chains, and a relatively high risk of illegal fishing.

However, analysis of Germany’s implementation of the EU IUU Regulation reveals limited progress in key areas.

Apparent shortcomings include a lack of human resources for effective import controls, inadequate procedures to assess the legal origin of imports, failure to apply robust risk criteria to target enforcement resources and gaps in information reported to the European Commission with respect to implementation.

This paper provides a series of recommendations aimed at closing these gaps and ensuring Germany meets its responsibility to effectively combat IUU fishing as one of the world’s largest markets for seafood.

## Germany's key role – fisheries import statistics

- Globally, Germany is the 7<sup>th</sup> largest importer of fisheries and aquaculture products, with an average annual percentage growth rate of 8.2% for the period 2002-2012<sup>4</sup>.
- Germany has imports of around 370,000 tonnes of fishery products covered by the IUU Regulation<sup>5</sup> annually, the third highest in the EU<sup>6</sup>. Around 60% of this consists of fish fillets and other processed fish meat, nearly all of which arrives frozen (as opposed to fresh/chilled). Key species include Alaska Pollack, tuna, cod, herring and hake.
- Germany had the highest number of CCs received by an EU member state for the period 2010-2013 (estimated 265,000 CCs received).

Processing States must implement robust traceability measures to ensure that IUU fisheries products do not enter the EU supply chain - failure to do so is grounds for a warning (yellow card)<sup>9</sup> and possible red card from the European Commission.

### The vast majority (>90%) of seafood imports enter Germany by shipping container

Container imports are not subject to the 5% inspection requirement placed on direct landings under the IUU Regulation. The inspection and verification of container imports is often challenging due to high traffic volumes at container ports, the prevalence of mixed cargo (fish and non-fish products, different types of frozen foods), and the arrival of many smaller quantities of fish dispersed across multiple containers. In addition, high volumes of CCs may accompany a single shipment, while single product batches may contain fish from multiple CCs. For these reasons, container trade may be an avenue for the import of IUU products to the EU, and should be viewed as higher "risk" than direct landings. The organisation and allocation of resources to effectively deal with such imports can be onerous and requires robust risk assessments to identify consignments for detailed investigation. Two of Germany's ports, Hamburg and Bremerhaven, are among the EU's top ten busiest container ports (ranked 2<sup>nd</sup> and 4<sup>th</sup>, respectively, in 2014, based on volume of containers handled)<sup>10</sup>.

### How does implementation in Germany compare with other EU member states?

The table below is based on import data from the EU's six largest importers of fishery products from outside the EU Economic Area. Data are sourced primarily from activity reports submitted by member states to the European Commission under the IUU Regulation. The most recent reports were submitted in 2014 for the years 2012 and 2013.

## Specific Trade Challenges

### High proportion of processed white fish imports

In 2014, Germany was the top EU importer of pollack, importing 145,000 tonnes of frozen fillets of which 59% had been processed in China<sup>7</sup>. Imports of processed fish present additional challenges for ensuring legal provenance, as this relies both on:

- flag State certification of legal origin, which may take place some time after a consignment has left the control of the flag State, and possibly even after import into the processing State, providing an opportunity for the substitution of IUU fish for legal product in the interim; and
- the ability of processing States to guarantee the integrity of consignments for export, i.e. to ensure that certified fish does not become mixed with non-certified fish where inputs are sourced from numerous fisheries and vessels<sup>8</sup>.

**Table 1: Fishery imports from non-EU countries by top 6 EU importers, 2012-2013\***

	Imports (tonnes) subject to IUU Regulation (annual average)**	Import CCs received	Verification requests to third countries	Verification requests as % of total CCs received	Rejected consignments	Direct landings by third country vessels	Port Inspections (third country vessels)**	Import CCs from carded countries****
<b>Spain</b>	850,000	94,718	1031	1.088%	44	385	701	4%
<b>United Kingdom</b>	385,000	21,695	246	1.134%	16	442	232	19%
<b>Germany</b>	370,000	120,000	120	0.100%	10 <sup>i</sup>	2	1	10.5% <sup>ii</sup>
<b>Italy</b>	350,000	57,172	2	0.003%	0	0	1	20% <sup>ii</sup>
<b>Netherlands</b>	340,000	16,788	44	0.262%	50	167	17	25%
<b>France</b>	275,000	83,818 <sup>iv</sup>	66	0.079%	Not reported	1268	512	6% <sup>v</sup>

**Notes to headings:**

\*Imports from outside the EU Economic Area

\*\*Eurostat (annual average between 2010 and 2014). Imports subject to EU IUU Regulation calculated based on methodology set out in MRAG (2014): [http://ec.europa.eu/fisheries/documentation/studies/iuu-regulation-application/doc/final-report\\_en.pdf](http://ec.europa.eu/fisheries/documentation/studies/iuu-regulation-application/doc/final-report_en.pdf)

\*\*\*This may include vessels accessing port for reasons other than landing and transhipment.

\*\*\*\*Includes countries that had received a yellow card (warning) from the Commission, or were subsequently issued with a yellow or red card due to insufficient action to combat IUU fishing. Based on flag State information in member state reports, except where indicated otherwise.

**Notes to member state data:**

<sup>i</sup> Between January 2010 and February 2015: <http://dipbt.bundestag.de/dip21/btd/18/040/1804034.pdf>.

<sup>ii</sup> Estimate based on Customs data reported in Eurostat. Germany did not report data on flag States of origin of imports in its report for 2012/13 (or for the previous reporting period). Note that Eurostat provides import data by exporting state and not by flag State of the fishing vessel. The exporting state may be the flag State, or a different non-EU country through which the products have been transported (e.g. for processing).

<sup>iii</sup> Estimate. Italy did not provide a breakdown of flag States for 10% of CCs received in 2012/13.

<sup>iv</sup> France did not provide exact numbers of import CCs received in its 2012/13 report, but has provided estimates based on Customs import declarations.

<sup>v</sup> Based on information on country of origin contained in Customs import declarations. It is unclear whether country of origin refers to the flag State in all cases.

## Significant data points (relating to Table 1):

- During the period 2012-2013, Germany imported an estimated 75,000 tonnes of fisheries products falling within the scope of the IUU Regulation from carded third countries (including countries that were either carded at the time, or received a yellow or red card subsequently)<sup>11</sup>. These imports, which amounted to around 10.5% of Germany's total fishery imports under the IUU Regulation, included high value products such as tuna from Thailand, the Philippines and Papua New Guinea, and swordfish from Sri Lanka.
- 120 verification requests were sent to third country authorities, representing 0.1% of CCs received. This would seem low relative to the IUU risk associated with consignments imported to Germany, related to the (i) high proportion of processed fish products, (ii) volumes of fish imported in containers and (iii) percentage of imports from carded countries.
- Germany refused the importation of ten consignments in the first five years of implementing the Regulation. This number is low compared to other major importers (see **Table 1**), particularly when considering the risk associated with Germany's imports. In addition, unlike other member states, Germany has not reported details of rejected consignments (origin, reasons for rejection), which prevents effective analysis of Regulation implementation. See below for comparison with UK rejections.

## Analysis of Germany's implementation

### Risk-assessment procedures

The IUU Regulation requires member states to subject certain imports to increased scrutiny ("verification"), based on the application of risk criteria defined in EU legislation or at the national level<sup>12</sup>. Contrary to these requirements, however, Germany does not appear to implement a risk-based approach to the assessment of CCs.

According to information provided by the German government<sup>13</sup>, Germany considers consignments arriving indirectly via another country (e.g. for processing) as higher risk. While this reasoning is valid (see above), with 70-80% of imports falling into this category, it is unclear how this criterion could be applied in practice to narrow down CCs for verification. The German government has stated that, in practice, it is only able to check around one-third of CCs received for imports (see below)<sup>14</sup>. These figures suggest a significant shortfall between the proportion of CCs subject to controls (i.e. approx. 33%) and the proportion of consignments considered as higher risk of being derived from IUU fishing (i.e. 70-80%).

As such, Germany's procedures appear inadequate to effectively identify high-risk consignments amidst large volumes of processed fish entering Germany via containers. With limited available resources to verify imports (see below), increasing efficiency of controls and allocation of enforcement effort via the application of robust risk criteria is paramount.

### Checks and verifications of CCs

The Federal Office for Agriculture and Food (Bundesanstalt für Landwirtschaft und Ernährung, BLE) is the German Single Liaison Office under the Regulation. It is responsible for oversight and administrative functions, including managing the CC scheme for imports, exports and re-exports. A 2013 study by the European Parliament<sup>15</sup> raised concerns as to whether Germany's centralised system of CC checks and verifications is capable of effectively detecting irregularities in certification and IUU products. Possible shortcomings include whether CCs are effectively crosschecked with additional sources of information (e.g. health, transport and customs documents) and if CC verifications are supported by rigorous physical inspections of consignments in port. Furthermore, Germany has carried out only a handful of audits of economic operators since 2010 for the purposes of establishing compliance of imports with Regulation requirements.

### Human resources

Germany, like Spain, has centralised functions for the control of imports under the IUU Regulation and their



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systems are directly comparable. This is in contrast to other member states, such as the UK, which devolves significant responsibility for these tasks to authorities at border inspection posts (BIP). Germany and Spain also receive a similar magnitude of import CCs under the Regulation (see **Table 1**).

Despite these similarities, Germany and Spain allocate very different levels of human resources to the implementation of IUU controls under the Regulation. Spain's Secretaría General de Pesca employs 25 officials for the checking and verification of import CCs (an increase from the 19 officials previously reported<sup>16</sup>), including 20 officials for first level documentary checks, and a further 5 officials working, amongst other tasks, on CC verifications (contacting third countries for further information to assess validity/authenticity of the CC)<sup>17</sup>. In contrast, only five people are employed in Germany's BLE to carry out the same tasks<sup>18</sup>.

As a consequence of limited human resources, the German authorities are only able to manually check around one-third of all import CCs received<sup>19</sup>. This is in contrast to Spain, where officials carry out documentary checks of all CCs received<sup>20</sup>. Likewise in the UK, BIP officials check 100% of import CCs and are provided with extensive training from the Single Liaison Office on how to carry out effective IUU controls<sup>21</sup>.

### Rejecting consignments

Given the IUU fishing risk associated with Germany's supply chains, Germany would be expected to have rejected a higher number of consignments since the Regulation came into force, or at least submitted a higher number of verification requests to third countries (see **Table 1**).

By way of example, Germany imports around twice the volume of IUU Regulation fisheries products from China than does the UK<sup>22</sup>. Over the two-year period 2012/13, the UK rejected a total of 16 consignments, of which nearly a third were processed in China<sup>23</sup>. Reasons for rejection included fraudulent CCs and mis-matches between species indicated on CCs and in consignments. By contrast, over a five-year period (2010 to early 2015), Germany rejected a total of only ten consignments from all third countries<sup>24</sup>. Although Germany did not report the identity of the flag or processing States concerned in these rejections, in view of higher export volumes from China to Germany compared to the UK, these data suggest that Germany is not implementing adequate procedures to identify and reject IUU products in accordance with the Regulation.

### Reporting standards

In contrast to other member states, such as Spain, the UK, the Netherlands and Italy, Germany has not provided information on the origin (flag State) of fisheries imports in its reports submitted under the Regulation. As a large proportion of German imports are of fish processed in China and imported as fillets, these show up in available Customs datasets as exports from China, rather than the flag State of the catching vessel. Without data on origin, it is difficult to assess the risk associated with imports, in terms of whether the flag State has sufficient systems in place and capacity to certify the legal origin of fisheries products destined for Germany. In addition, Germany has failed to provide other key data in its activity reports under the Regulation, for example on the origin of rejected consignments (see above).



# Conclusions and Recommendations

Germany faces a substantial challenge in checking very large numbers of CCs, of which around 10.5% are estimated as originating from countries carded by the EU for failure to combat IUU fishing (including countries that were either carded at the time, or received a yellow or red card subsequently). In addition, the arrival of large volumes of fishery products in shipping containers and in processed form present further challenges for authorities charged with physically inspecting products and verifying legal origin. We recommend proactive engagement with the full range of requirements under the EU's IUU regime, which will help achieve the most robust possible implementation of the Regulation's CC scheme:

- Application of rigorous, consistent and cross-departmental risk-assessment procedures to identify high-risk CCs for verification, as well as for decisions to inspect consignments.
- Allocation of appropriate funding to enable training and capacity building of human resources. Budgetary negotiations concerning the federal budget 2017 currently underway in Germany present an opportunity to provide increased funding for IUU Regulation implementation in future. As a priority, adequate human resources would need to be allocated to ensure high-risk CCs are identified and verified effectively.
- As part of the modernisation of the CC scheme, which will see a transition from the current paper-based system towards an EU-wide shared electronic database of CCs, support the use of the EU-wide database and work with the Commission to make it as robust, efficient and effective as possible in identifying IUU products.
- Consistent and transparent reporting of activities under the Regulation to permit assessment of implementation, and development of best practice among all member states.

IUU fishing is one of the main impediments to the achievement of legal and sustainable world fisheries at a time of mounting threats to marine biodiversity and food security. The success of the IUU Regulation in combatting IUU fishing in the long term relies on the willingness and ability of all 28 member states to play their full part in policing imports of fisheries products. It is only through uniform, harmonised, risk-based implementation that illegal catch can be fully shut out, as unscrupulous operators will always seek alternative points of entry with less stringent controls.

## Endnotes

- <sup>1</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 (OJ L 286, 29.10.2008).
- <sup>2</sup> The flag State is the State in which a vessel is registered.
- <sup>3</sup> Article 17 of the EU IUU Regulation.
- <sup>4</sup> FAO (2014). *The state of world fisheries and aquaculture. Opportunities and challenges*. Rome, 2014. <http://www.fao.org/3/a-i3720e.pdf>
- <sup>5</sup> See Annex I to the EU IUU Regulation for the list of products excluded from the definition of fishery products for the purposes of the Regulation (currently including aquaculture products obtained from fry or larvae, live ornamental fish and species caught in freshwater, see [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L\\_.2011.057.01.0010.01.ENG](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2011.057.01.0010.01.ENG)).
- <sup>6</sup> Eurostat (annual average between 2010 and 2014). Imports subject to EU IUU Regulation calculated based on methodology set out in MRAG (2014): [http://ec.europa.eu/fisheries/documentation/studies/iuu-regulation-application/doc/final-report\\_en.pdf](http://ec.europa.eu/fisheries/documentation/studies/iuu-regulation-application/doc/final-report_en.pdf)
- <sup>7</sup> EUMOFA (2015). *The EU fish market*. 2015 edition. <http://www.eumofa.eu/the-eu-fish-market>. See also AIPCE-CEP (2015). *Finfish Study 2015*. AIPCE-CEP, EU Fish Processors and Traders Association. Brussels, October 2015. [http://www.aipce-cep.org/sites/g/files/g402611/f/201510/FinFish%20Study%202015\\_0.pdf](http://www.aipce-cep.org/sites/g/files/g402611/f/201510/FinFish%20Study%202015_0.pdf)
- <sup>8</sup> [http://sasama.info/en/pdf/reports\\_17.pdf](http://sasama.info/en/pdf/reports_17.pdf)
- <sup>9</sup> See, for example, the European Commission's decision to yellow card Thailand: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D0429\(02\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D0429(02)&from=EN)
- <sup>10</sup> Twenty-foot Equivalent Unit (TEU), Eurostat.
- <sup>11</sup> Estimate based on data in Eurostat as Germany did not report details of validating flag States in its activity reports for 2012/13. Note that Eurostat provides import data by exporting state and not by flag State of the fishing vessel. The exporting state may be the flag State, or a different third country through which the products have been transported (e.g. for processing).
- <sup>12</sup> Article 17(3) of the EU IUU Regulation.
- <sup>13</sup> December 2015: <http://dip21.bundestag.de/dip21/btd/18/069/1806948.pdf>
- <sup>14</sup> *Ibid.*
- <sup>15</sup> European Parliament (2013). *Compliance of imports of fishery and aquaculture products with EU legislation*: [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/513968/IPOL-PECH\\_ET\(2013\)513968\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/513968/IPOL-PECH_ET(2013)513968_EN.pdf)
- <sup>16</sup> Report submitted by Spain under the IUU Regulation for 2012/13.
- <sup>17</sup> Around 80% of files (import requests with one or several CCs) are resolved by the Spanish authorities in one day: Secretaría General de Pesca, pers. comm. to coalition, April 2016.
- <sup>18</sup> Report submitted by Germany under the IUU Regulation for 2012/13.
- <sup>19</sup> December 2015: <http://dip21.bundestag.de/dip21/btd/18/069/1806948.pdf>
- <sup>20</sup> Report submitted by Spain under the IUU Regulation for 2012/13.
- <sup>21</sup> Marine Management Organisation, pers. comm. to coalition, January 2016.
- <sup>22</sup> Eurostat (annual average between 2010 and 2014). Imports subject to EU IUU Regulation calculated based on methodology set out in MRAG (2014): [http://ec.europa.eu/fisheries/documentation/studies/iuu-regulation-application/doc/final-report\\_en.pdf](http://ec.europa.eu/fisheries/documentation/studies/iuu-regulation-application/doc/final-report_en.pdf)
- <sup>23</sup> Report submitted by the UK under the IUU Regulation for 2012/13.
- <sup>24</sup> February 2015: <http://dipbt.bundestag.de/dip21/btd/18/040/1804034.pdf>

The Environmental Justice Foundation (EJF), Oceana, The Pew Charitable Trusts and WWF are working together to secure the harmonised and effective implementation of the EU Regulation to end illegal, unreported and unregulated (IUU) fishing. In February 2016 the NGOs published an assessment of member state progress in implementing the Regulation, compiled using an access to information request. You can find it at [http://www.iuuwatch.eu/wp-content/uploads/2016/02/IUU\\_report\\_090216\\_web.singles.pdf](http://www.iuuwatch.eu/wp-content/uploads/2016/02/IUU_report_090216_web.singles.pdf)

**Contacts:**

Sebastian Buschmann | EJF |  
sebastian.buschmann@ejfoundation.org | +49 (0) 30 120 89 020  
Kristin von Kistowski | Pew Charitable Trusts |  
Kristin@Kistowski.de | +49 (0) 0171 950 8463  
Catherine Zucco | WWF |  
catherine.zucco@wwf.de | +49 (0) 40 530 200 315  
Anna Holl-Buhl | WWF |  
Anna.Holl@wwf.de | +49 (0) 40 530 200 339  
Vanya Vulperhorst | Oceana |  
vvulperhorst@oceana.org | +32 (0) 25 13 22 42

