

ISSUE BRIEF

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

Resource constraints on effective IUU Regulation¹ implementation in the Netherlands



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Summary

The Netherlands is one of the leading importers of seafood products in the European Union (EU). Key trade challenges include the relatively high risk of IUU fishing associated with imports, an increase in the number of catch certificates (CCs) received for fisheries imports in recent years, and high volumes of products entering the Netherlands in shipping containers via the port of Rotterdam – the EU’s most important container port – presenting particular challenges in terms of the targeting of enforcement effort to ensure legal origin.

Progress in implementing the IUU Regulation catch certification (CC) scheme was initially slow in the Netherlands due to large-scale administrative restructuring. However, significant progress has been seen in recent years, most importantly the development of a national risk assessment tool to assist in the effective targeting of enforcement resources towards consignments most at risk of originating from IUU fishing.

A reduction in human resources within the competent authority threatens to undermine the progress made to date. There is still work to be done to ensure that the national risk tool remains relevant in light of emerging risks and seafood trade flows, is effectively applied to detect high-risk consignments for further investigation, and that information received from flag and processing States as proof of legal origin can be rigorously analysed.

Alongside other key importing member states, the implementation of the EU IUU Regulation in the Netherlands has a decisive bearing on the EU’s efforts to prevent illegally sourced fish from entering its market. It is therefore paramount that appropriate funding be allocated to provide for the full and robust implementation of IUU Regulation import controls. As a priority, human resources must be sufficient to ensure that high-risk CCs are identified and verified effectively. In the short term, this will require increased budget for at least one additional full-time official in the Food and Consumer Product Safety Authority (NVWA).

¹ 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).

Introduction

The Netherlands is one of the leading importers of seafood products in the European Union (EU) (see Box: **The Netherlands' 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 paper provides an overview of the current status of implementation of key aspects of the IUU Regulation in the Netherlands, with a particular focus on the adequacy of current levels of human resources to fulfil key obligations. In light of the Netherlands' role as a leading importer of seafood in the EU, this paper focuses primarily on 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 illegally caught 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 State² of the fishing vessel) via import documents known as catch certificates (CCs). 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 this³.

² The flag State is the State in which a vessel is registered.

³ Article 17 of the EU IUU Regulation.

⁴ 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

⁵ Eurostat (2014).

⁶ Based on flag State information in the biennial report of the Netherlands (2014/15). 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. The issuing of a yellow card implies that the third country concerned is falling short in its compliance with international obligations to combat IUU fishing. As such, imports from yellow-carded countries should be afforded more detailed scrutiny. This scrutiny should be extended, wherever possible, to countries for which there are indications of shortcomings in fisheries management and control systems, even though a yellow or red card may not yet have been issued.

⁷ Sri Lanka was issued a yellow card in November 2012, and subsequently a red card in January 2015 for failure to take action to improve its fisheries management systems and frameworks to combat IUU fishing, in line with an action plan delivered by the EU. In April 2016, Sri Lanka was issued a green card for progress made.

⁸ Biennial Report submitted by the Netherlands for 2014/15.

⁹ Gross weight (tonnes) and volume of containers handled (Twenty-foot Equivalent Unit - TEU) (Eurostat)

¹⁰ Netherlands Single Liaison Office (SLO) for the IUU Regulation, pers. comm., March 2016.

The Netherlands' key role – fisheries import statistics

- The Netherlands imports around 340,000 tonnes of fishery products covered by the IUU Regulation annually, the fifth highest level in the EU⁴. Key imported species include cod, tuna, mackerel, herring and pollock. Frozen fish and fish fillets/meat account for 60% of imports⁵.
- Approximately 16% of import CCs were received from "carded" countries in 2014–15, and thus associated with a higher risk of being derived from IUU fishing⁶. In 2014, this included 2,321 CCs for the import of fishery products from Sri Lanka, which was yellow-carded at the time⁷. In 2015, it included 487 CCs from Thailand, which received a yellow card in April 2015.
- The number of CCs received for fishery product imports increased in 2014–15, rising to almost twice the figure for previous years (16,788 in 2012–13 rising to 30,335 in 2014–15)⁸.
- Rotterdam is the EU's most important container port⁹ and a key point of entry for frozen and canned fishery products¹⁰ destined for the domestic market and other EU member states. Container imports present particular challenges in terms of inspections, verifications and allocation of enforcement effort¹¹.

Status of implementation of import controls under the IUU Regulation catch certification scheme

Between 2010 and 2012, the Dutch administration underwent a significant re-organisation, with the merging of three departments into the Food and Consumer Product Safety Authority (NVWA). This re-organisation coincided with the entry into force of the IUU Regulation, presenting particular challenges during the early stages of implementation. However, significant progress has been made since 2010.

The EU IUU Regulation requires member states to identify consignments for increased scrutiny ("verification") based on the application of risk criteria defined in EU legislation or at the national level¹². In recent years, the NVWA has taken significant steps forward in developing a national risk assessment tool to improve the control of imports, in line with Regulation requirements. A series of criteria to identify imports with a high risk of involvement in IUU fishing have been defined¹³, and are applied to incoming CCs to assess whether increased scrutiny is warranted. The risk assessment tool is built into a national electronic system developed by NVWA to improve the storage, processing and control of CCs¹⁴.

¹¹ Due to the high traffic volumes at container ports, the prevalence of mixed cargo, and the arrival of many smaller quantities of fish dispersed across multiple containers. In addition, high numbers of CCs may accompany a single shipment, or a single product batch may contain fish from multiple CCs.

¹² Article 17(3) of the EU IUU Regulation.

¹³ The scores for each risk factor are combined and weighted to obtain a total risk score, e.g. for processed products, the overall score would reflect the risk associated with both the processing country and flag State. Factors considered in the analysis include the risk associated with exporters, importers, producers, vessels, fishing areas, countries, species, gears and transport locations.

¹⁴ Netherlands Single Liaison Office (SLO) for the IUU Regulation, pers. comm., March 2016.

Statistics on implementation

In 2012–13, verification requests sent to third countries represented less than 0.3% of the total 16,788 CCs received (44 requests), compared to around 25% of imports originating from carded third countries (countries that were either yellow carded at the time, or received a yellow or red card subsequently, and therefore associated with a higher risk of IUU fishing)¹⁵ (see Annex 1).

Data for 2014–15 show an increase in the proportion of CCs entering the verification process during these years. In 2014–15, 511 CCs were subject to verification with third countries, equating to 1.7% of the 30,335 CCs received¹⁶. This included 47 CCs for imports from Thailand, which received a yellow card from the European Commission in April 2015¹⁷. These data are consistent with the development of the national risk assessment tool to direct import controls, which should allow for more effective identification of consignments potentially stemming from IUU fishing.

At the same time, however, only one consignment was rejected in 2014–15¹⁸. This may be considered surprising in light of the IUU fishing risk associated with imports to the Netherlands: 16% of CCs were received from carded third countries in 2014–15 (see Box: **The Netherlands' key role**)¹⁹. While the reason for the low number of rejections in 2014–15 is unclear, it is vital that verification procedures in all member states are sufficient to detect cases of non-compliance, and that consignments are rejected in all cases where inadequate proof of compliance is received (from a third country).

Current challenges

A key barrier to the full and effective implementation of the EU IUU Regulation CC scheme in the Netherlands is a lack of human resources in the NWWA, the competent authority for IUU import controls. While Customs is responsible for first level IUU documentary controls at border inspection posts, NWWA carries out detailed verifications of consignments identified as potentially originating from IUU fishing, and ensures the national risk criteria reflect emerging risks and trade flows.

In 2015, the level of human resources in NWWA for CC verifications and risk analysis decreased from three to two full-time officials. This has restricted the development of the national risk assessment tool, undermining the advances in implementation seen in recent years. NWWA is currently limited to a reactive approach to import controls, responding to signals from the European Commission and other member states, or to issues identified by Customs, but with very little scope for proactive risk-based verification of CCs. This reduces the likelihood of detecting cases of IUU fishing, as well as the overall effectiveness of the EU-wide CC scheme in blocking IUU products from the EU market.

Conclusions and recommendations

The Netherlands faced a number of challenges during the early years of implementing the IUU Regulation, but is now making progress towards fulfilling its obligations to implement robust controls for fisheries imports. This includes the development of a national risk assessment tool to identify consignments most at risk of stemming from IUU fishing, and increasing the number of verifications with authorities in flag and processing States to assess the compliance of fisheries imports with applicable rules. However, there is still work to be done, and recent decreases in human resources in the NWWA²⁰ – the competent authority for IUU import controls – threatens to jeopardise progress made to date.

It is therefore paramount that appropriate funding be allocated to ensure continued progress towards the full and robust implementation of IUU Regulation import controls in the Netherlands. **We recommend, in particular, that:**

- **In the short term, funding for at least one additional staff member is allocated to allow NWWA to act proactively in identifying and blocking IUU products in accordance with a risk-based approach.**
- **Going forward, adequate human resources are maintained in NWWA to ensure the effective identification and verification of high-risk CCs.**
This includes:
 - o the continued application of the national risk assessment methodology to direct import controls and its further development/refinement to ensure the effective identification of high-risk consignments; and
 - o the robust verification of high-risk CCs, both in terms of requesting data from third countries to assess compliance of imports with applicable rules (i.e. VMS positions, logbook data, licence details, etc.) and the analysis of data received.

Ensuring adequate capacity for import controls is especially crucial given the importance of the Netherlands as an importer of seafood, of which a significant proportion is associated with a high risk of IUU fishing – 16% from countries carded²¹ by the EU for failing to combat IUU fishing in 2014–15. Many of these products pass through the port of Rotterdam, the EU's busiest container port and a key hub for the onward transport of fisheries products to other destinations in the EU. Along with other key importing member states (see Annex 1), the implementation of the IUU Regulation in the Netherlands has a decisive bearing on the EU's efforts to prevent illegally sourced fish from entering its market.

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.

¹⁵ The issuing of a yellow card implies that the third country concerned is falling short in its compliance with international obligations to combat IUU fishing. As such, imports from yellow-carded countries should be afforded more detailed scrutiny. This scrutiny should be extended, where possible, to countries for which there are indications of shortcomings in fisheries management and control systems, even though a yellow or red card may not yet have been issued.

¹⁶ Biennial Report submitted by the Netherlands for 2014/15.

¹⁷ Netherlands Single Liaison Office (SLO) for the IUU Regulation, pers. comm., March 2016.

¹⁸ Biennial Report submitted by the Netherlands for 2014/15.

¹⁹ Based on information on flag States of origin of fisheries imports in the 2014–15 Biennial Report for the Netherlands. It is noted that some of these carded countries were delisted (green-carded) during the reporting period (i.e. in either 2014 or 2015).

²⁰ In 2015, the number of officials in NWWA responsible for IUU import controls was reduced from 3 to 2 full-time equivalent (FTE).

²¹ 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.

Annex 1: Implementation of the IUU Regulation in the Netherlands compared 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 2016 for the years 2014 and 2015. These have been requested from

the European Commission via an access-to-information request; however, at the time of writing, they have not yet been received. An exception is the 2014–15 report for the Netherlands, data from which are reflected in the main body of this paper. However, for the purposes of comparisons between member states, Table 1 reflects data from the previous reports submitted by member states for the period 2012 to 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****
Spain	850,000	94,718	1031	1.088%	44	385	701	4%
United Kingdom	385,000	21,695	246	1.134%	16	442	232	19%
Germany	370,000	120,000	120	0.100%	10 ⁱ	2	1	10.5% ⁱⁱ
Italy	350,000	57,172	2	0.003%	0	0	1	20% ⁱⁱⁱ
Netherlands	340,000	16,788	44	0.262%	50	167	17	25%
France	275,000	83,818 ^{iv}	66	0.079%	Not reported	1268	512	6% ^v

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

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

****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:

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

ⁱⁱ 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).

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

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

^v 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.

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. The coalition is collaborating with the Good Fish Foundation to support these aims in the Netherlands.

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/2016/02/the-eu-iuu-regulation-download-the-report-here/>

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