

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

## Case studies highlighting the need for improved implementation of the EU IUU Regulation Catch Certificate (CC) Scheme

### Introduction

The Environmental Justice Foundation, Oceana, The Pew Charitable Trusts and WWF ("the coalition") are working together to secure the harmonised and effective implementation of the EU Regulation to end illegal, unreported and unregulated (IUU) fishing<sup>1</sup>.

In two position papers<sup>2</sup> published in July 2016, the coalition proposed a number of recommendations to address identified shortcomings in implementation of the catch certificate (CC) scheme, which is a core part of the EU IUU Regulation. These fall under two headings:

- (i) Establishment of an EU-wide database of CC information
- (ii) Harmonisation of IUU import controls across all EU member states, in accordance with a risk-based approach

The following two case studies from member state experience of implementing the CC scheme highlight the need for urgent improvements to the current system in line with the coalition's recommendations, summarised at the end of this document<sup>3</sup>.

### Background

The EU's ground-breaking legislation to end IUU fishing – the EU IUU Regulation – entered into force in 2010. The IUU Regulation establishes a CC scheme, which aims to ensure that products originating from IUU fishing activities are prevented from entering the EU market.



Inspection of a longliner in an EU port. © EJF

Under the CC scheme, all fisheries imports entering the EU must be accompanied by import documents known as catch certificates (CCs). These import documents must be validated by the flag State (i.e. the country which authorises the vessel that caught the fish), certifying that the products were caught in compliance with national and international fishing laws and conservation and management measures (CMMs). At the point of import into the EU, EU member states are required to verify that fish and seafood products accompanied by CCs are of legal origin, according to a risk-based approach. This involves selecting CCs for further scrutiny through an assessment of the relative risk that the import originates from IUU fishing.

### Weaknesses in the EU IUU Regulation catch certification scheme

The coalition has identified a number of shortcomings in implementation of the CC scheme, which must be addressed if the system is to be fully effective in blocking illegally caught fish from the EU market. Two of the key shortcomings are described below, with case studies highlighting why they must be addressed by the European Commission and member states as a matter of priority. As explained in the Recommendations section below, these deficiencies can be overcome relatively easily through the modernisation of the CC scheme.

#### 1. The paper-based nature of the CC scheme, which prevents EU-level cross-checks of information

Under the current paper-based CC scheme, copies of the same certificate may be used to import multiple consignments into different points across the EU, in excess of the total weight certified by the original document. In the absence of a central, electronic database of CC information, authorities are unable to carry out EU-level cross-checks of documents received by other EU countries, in order to ascertain whether the total weight of certified seafood product has been exceeded.

The following case study illustrates the urgent need for an EU-wide database of CC information. It demonstrates that such a database would facilitate cross-checks of CCs and the exchange of information on consignments between member states, ensuring a coordinated approach to imports across the EU.

<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> <http://www.iuuwatch.eu/position-papers/>

<sup>3</sup> The coalition's recommendations for the CC scheme are made in the context of the European

Commission's commitment to launch an electronic database of all CC information by the end of 2016 (referred to by the Commission as the "modernisation" of the CC system). See <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2015:480:FIN>.

## Case study 1: The need for an EU-wide database of CCs

The following case occurred in an EU member state (MS-A) in 2016. The names of the countries concerned have been removed to maintain confidentiality.

An operator asks MS-A for an authorisation to import a fish consignment shipped by container from a West African country (Country-X). The consignment has been authorised for transit through another EU member state (MS-B). The consignment consists of approximately 27 tonnes of seafood, accompanied by multiple CCs:

- 26 tonnes of frozen seafood (several species) under ten CCs validated by Country-X as the flag State.
- 0.8 tonnes of frozen shrimp tails under a CC validated by a South American country (Country-Y) as the flag State and accompanied by a processing declaration endorsed by Country-X as the processing State. The CC presented is a copy.

When the CC from the South American country (Country-Y) is received, MS-A's national database of CC information issues an alarm. According to the system, a CC with the same number had already been used in 2014 to import the full amount of product certified on the original CC: 77 tonnes of frozen shrimp tails and shrimp (whole). The original CC is filed in MS-A's national database.

As the CC was fully used in 2014, the CC cannot be re-used to import further products into the EU, unless the same product

is being imported for a second time (i.e. following re-export of the original consignment from the EU). MS-A can confirm that it has not issued a re-export CC for the consignment, but in the absence of an EU-wide database of CC information, it is not possible to know with certainty whether a re-export CC has been issued by another EU member state.

MS-A starts a verification process with the West African country (Country-X) with respect to the processing declaration; however, Country-X is unable to provide adequate proof of compliance and traceability of the consignment. At the same time MS-A requests the re-export CC from the operator, but they are unable to provide it.

In the absence of a re-export CC, and with the original CC from Country-Y already fully used, the documentation presented does not guarantee the legality and traceability of the consignment<sup>4</sup>. MS-A therefore decides to refuse the consignment of 0.8 tonnes of frozen shrimp tails.

However, the operator in the meantime cancels the request and asks to import the consignment into the transit EU member state (MS-B). MS-B informs MS-A that transit is cancelled and authorises the import of the consignment.

Again, with no EU-wide database of CC information, the importing MS-B is unaware that the CC it accepts for import has already been fully used to import products into MS-A.

Following import into MS-B, the consignment is subsequently marketed in MS-A.

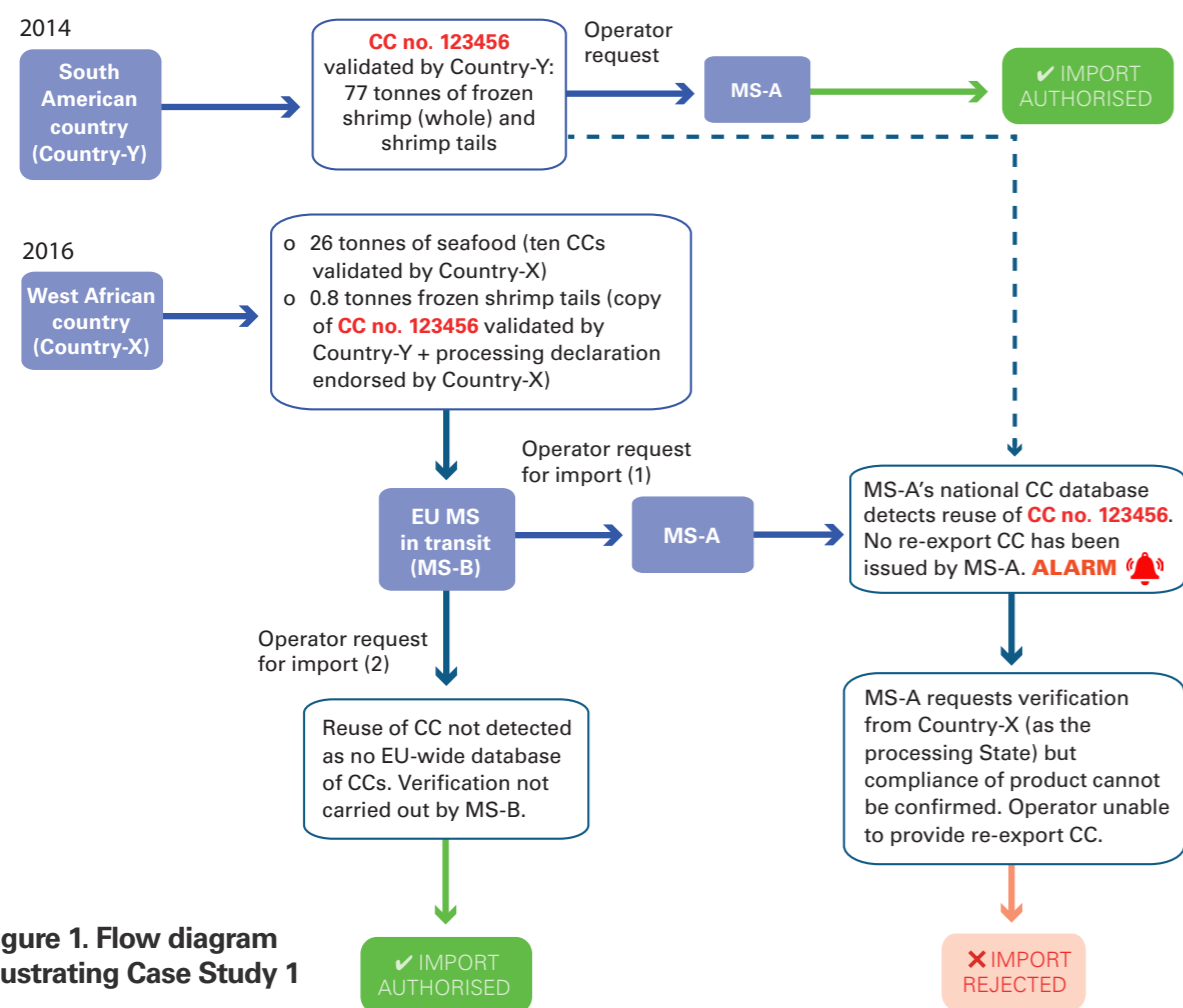


Figure 1. Flow diagram illustrating Case Study 1

## 2. Significant variability in methods for assessing the legality of fisheries imports

In several member states, current procedures for assessing CCs appear inadequate to detect cases of IUU fishing and to block imports originating from such activities<sup>5</sup>. The EU IUU Regulation requires member states to implement a risk-based approach to the verification of CCs<sup>6</sup>, meaning that efforts should be focused on consignments that have a high risk of being linked to IUU fishing (e.g. catches from vessels with a past history of IUU fishing, consignments of high value species, etc.).

Currently, however, a number of the major importing EU member states are still not applying a comprehensive risk-based approach to the verification of import CCs under the EU IUU Regulation<sup>7</sup>. Furthermore, the level of rigour of the resulting verifications – such as requests for proof of compliance from flag States and physical inspections of seafood products – is often insufficient to identify products originating from IUU fishing. As a result of inadequate harmonisation of national procedures to a sufficiently stringent standard across the EU, it is likely that weaknesses in EU border controls are being exploited by unscrupulous operators.

The following case study is a positive example of how rigorous procedures for the checking and risk-based verification of CCs can assist in detecting products of IUU fishing. In particular, it highlights the importance of contacting third country authorities (i.e. as part of the CC verification process), as this increases the likelihood that IUU fishing will be detected. Unfortunately, at present, this level of rigour in the verification process is not standard practice across all EU member states.

### Case study 2: The importance of robust procedures for the checking and verification of CCs

The following case occurred in an EU member state (MS-A) in April 2016. The names of the countries concerned have been removed to maintain confidentiality.

MS-A receives an import request with a CC for bigeye tuna, swordfish and yellowfin tuna, validated by an East African country (Country-X). The consignment is fresh, coming by plane and the CC is "simplified"<sup>8</sup>.

During the documentary check by the MS-A authorities, discrepancies, irregularities and risks are found on the CC and accompanying documents:

- The CC number refers to 2015 but the products are fresh.
- According to the data stored in the national database of MS-A, the catching vessel is not eligible to use a simplified CC, and is not flagged to Country-X.
- In the CC, the catch is presented as total quantity (6.423 tonnes), without being divided into the three species. However, a separate document, the import declaration, states that the quantities are 0.171 tonnes of bigeye tuna, 0.838

tonnes of swordfish and 0.275 tonnes of yellowfin tuna, which do not correspond to the total quantity on the CC.

- The three species are classified as species of high commercial value.
- The signature and stamp are placed in the wrong field of the CC.
- In the CC the products are coded as fresh and under CN heading 0302<sup>9</sup>, whilst on the accompanying health certificate they are coded as frozen and under CN heading 0304.
- The transport annex to the CC states that the consignment is transported by truck from Country-X. The accompanying transport documentation states that the consignment is arriving by plane from a country in Southern Africa (Country-Y).

The detection of these irregularities prompts the authorities of MS-A to classify this CC as high risk, according to their risk-based approach. MS-A therefore starts a verification procedure by requesting further information from the validating country (Country-X) on the compliance of the consignment. The competent authority of Country-X confirms that:

- The CC is not valid, nor is it authentic.
- The vessel is flagged to the country in Southern Africa (Country-Y) but is chartered and has a licence to operate in the waters of Country-X.
- The consignment was exported by truck to Country-Y, and then exported by plane to MS-A.
- The exporting operator in Country-X will be informed and sanctioned.
- Country-Y will be asked to issue and validate a correct CC as flag State.

In addition to contacting Country-X, officials from MS-A inspect the consignment and confirm that the product weights conform to the weights in the import declaration but not to the weight in the CC.

Following the verification process, the competent authority of MS-A decides to deny the import<sup>10</sup>.

As a result of a strict documentary check of all CCs received, underpinned by a well-established risk analysis, MS-A is able to efficiently identify high-risk consignments and carry out verifications that may prompt the rejection of IUU products.



Frozen fish consignment, EU port. © EJF

<sup>5</sup> See, for example: [http://www.iuuwatch.eu/wp-content/uploads/2015/07/IUU\\_Germany\\_Brief\\_ENG.1.pdf](http://www.iuuwatch.eu/wp-content/uploads/2015/07/IUU_Germany_Brief_ENG.1.pdf)

<sup>6</sup> Art. 17(3) of the EU IUU Regulation

<sup>7</sup> <http://www.iuuwatch.eu/wp-content/uploads/2016/07/Risk-Assessment-FINAL.pdf>

<sup>8</sup> The EU IUU Regulation includes a specific provision to account for small-scale fisheries. A simplified catch certification scheme can apply to catches obtained by fishing vessels that comply with the criteria set out in Art. 6 of 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>9</sup> When declared to customs in the EU, goods must generally be classified according to the Combined Nomenclature or CN. See [https://ec.europa.eu/taxation\\_customs/business/calculation-customs-duties/what-is-common-customs-tariff/combined-nomenclature\\_en](https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/what-is-common-customs-tariff/combined-nomenclature_en)

<sup>10</sup> Pursuant to Arts. 18(1)(c), 18(1)(d) and 18(2)(d) of the EU IUU Regulation.

## Recommendations arising from these cases

### **Recommendation 1: Establishment of an EU-wide database of CC information**

An EU-wide, electronic database of CC information should be established, featuring robust functions to assist member states in the checking and verification of CCs based on the risk that imports originate from IUU fishing. A pilot scheme for the electronic CC database should be in place by mid-2017, with a full system established by no later than the end of 2017<sup>11</sup>.

Delivery of an EU-wide database of CCs is an urgent priority if consignments are to be scrutinised effectively, and IUU fish denied entry to the EU market.

### **Recommendation 2: Harmonisation of procedures for the risk-based assessment of CCs**

Procedures for risk analysis and CC verifications should be harmonised to a minimum standard across member states,

to ensure a united EU barrier to illegal seafood imports.

To the extent possible, harmonisation should be to the minimum standard described in the coalition's position paper<sup>12</sup> on this issue. This includes the following three steps:

- (a) applying minimum checks to all CCs to identify suspicious imports and to detect instances of fraud;
- (b) applying robust risk criteria to all CCs to identify imports most at risk of originating from IUU fishing; and
- (c) undertaking rigorous verifications to determine compliance of the above imports with applicable laws and CMMs.

The establishment of the EU-wide database, incorporating a robust risk analysis tool, provides a crucial opportunity to standardise procedures for the risk-based verification of CCs across member states. As such, the harmonisation of procedures across member states should be achieved by the end of 2017, in line with the establishment of this system (see under *Recommendation 1* above). In order to accomplish this objective, EU member states must commit to the full and systematic use of the database once established.



Seafood containers among mixed cargo, EU port. © Karl-Heinz Boehnke/WWF

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.

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<sup>11</sup> In a Communication to the European Parliament and Council dated 1 October 2015, the European Commission committed to modernise the CC scheme through the establishment of an EU-wide database of CC information by the end of 2016. See: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2015:480:FIN>

<sup>12</sup> <http://www.iuuwatch.eu/catch-certificate-scheme/>