

Special report

## EU action to combat illegal fishing

Control systems in place but weakened by uneven checks and sanctions by Member States



EUROPEAN  
COURT  
OF AUDITORS

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## Executive summary

I Illegal, unreported and unregulated fishing (“illegal fishing”) is one of the greatest threats to marine ecosystems, undermining efforts to manage fisheries sustainably. The EU is a major global player in fisheries, both in terms of its fishing fleet (with around 79 000 vessels) and as the world’s largest importer of fishery products (34 % of total world trade in value). The EU has been committed to achieving Sustainable Development Goal target 14.4 to end illegal, unreported and unregulated fishing by 2020. This target has not been met, unsustainable fishing persists and there is a risk that products derived from illegal, unreported and unregulated fishing are sold on the EU market.

II We examined the EU framework, action and spending aimed at preventing products of illegal, unreported and unregulated fishing from ending up on EU citizens’ plates. The European Parliament asked the ECA to report on this issue in 2018 and 2021. With this report, we aim to contribute to policy discussions and legal developments regarding the fight against illegal fishing. The audit covered the period from 2014 to 2020. We focused on:

- o the effectiveness of control systems for preventing the import of illegal fishery products ;
- o the effectiveness of Member States’ control systems for checking national fleets and waters.

III Overall, we conclude that the control systems in place to combat illegal fishing are partially effective; although they mitigate the risk, their effectiveness is reduced by the uneven application of checks and sanctions by Member States.

IV Our main findings are as follows:

- (a) The EU set up a catch certification scheme in 2008 to guarantee the legality of imported fishery products. However, ensuring the legality of a product does not guarantee that it is sustainably sourced. We found that the scheme had improved traceability and reinforced import control. Nonetheless, differences in the scope and quality of checks in Member States risk undermining the scheme’s effectiveness. The lack of digitalisation of the scheme reduces efficiency and increases the risk of fraud.

- (b) When the Commission and Council consider that the control systems in place in non-EU countries exporting fishery products to the EU are deficient, they can take action to encourage reform. We found that these actions had proven useful and triggered positive reform in most of the countries concerned.
- (c) Member States are responsible for the correct application of the EU fisheries control system. We found that national checks often detected instances of illegal fishing. However, the Commission has identified significant shortcomings in fisheries control systems in some Member States, leading to overfishing and underreporting of catches. It is taking steps to address these shortcomings.
- (d) The European maritime and fisheries fund provided support for monitoring, control and enforcement activities, with a total budget of €580 million. We found that the 23 projects we audited in four Member States were in line with priorities and helped reinforce the control system.
- (e) The EU framework requires Member States to impose effective, proportionate and dissuasive sanctions for all serious infringements of the rules. While the vast majority of serious infringements detected led to sanctions, these varied considerably across Member States for similar infringements. In some Member States, sanctions were neither proportionate to the economic benefit derived from the infringements, nor dissuasive.

**V** Based on these findings, we recommend that the Commission:

- monitor that Member States reinforce their control systems for preventing the import of illegal fishery products, and take necessary action; and
- ensure that Member States apply dissuasive sanctions against illegal fishing.

# Introduction

**01** The EU is a major global player in fisheries. It has one of the world's largest fishing fleets, with around 79 000 vessels<sup>1</sup>, and accounts for 6 % of worldwide fisheries production from catches<sup>2</sup>. The fishing sector employs 129 540 fishers directly and generates an annual €6.3 billion in revenue. The Member States leading the market in terms of volume are Spain, Denmark, France and the Netherlands<sup>3</sup>.

**02** The EU consumes far more fishery products than it catches or farms, importing 60 % of products consumed to satisfy demand. This makes it the world's largest importer of fishery products (34 % of total world trade in value)<sup>4</sup>.

**03** In 2020, the EU imported €23 billion of fishery products. *Figure 1* shows its main suppliers.

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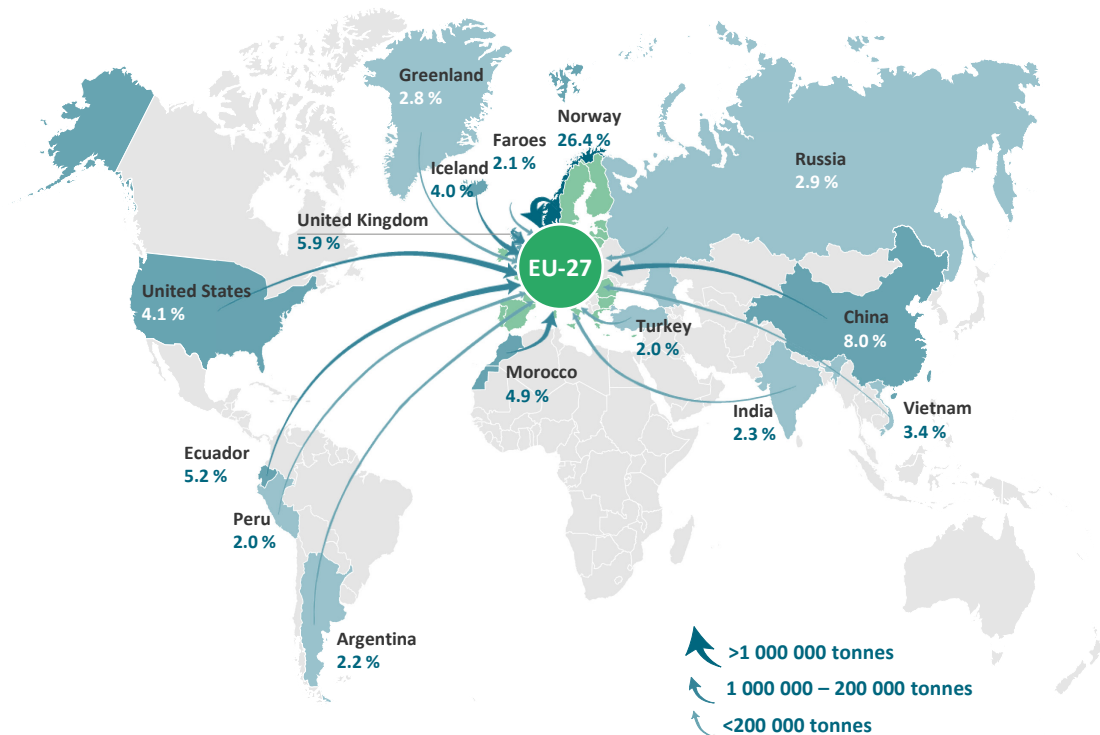
<sup>1</sup> Synopsis Report of data provided by Member States.

<sup>2</sup> Fisheries and aquaculture production.

<sup>3</sup> Eurostat Fishery Statistics.

<sup>4</sup> The State of the World Fisheries and Aquaculture 2020.

**Figure 1 – Imports of fishery and aquaculture products: main suppliers (percentage of total volume 2020)**



Source: ECA, based on Eurostat data.

## Illegal, unreported and unregulated fishing

**04** Illegal, unreported and unregulated fishing (“IUU fishing”), hereafter “illegal fishing”, encompasses a variety of fishing activities<sup>5</sup> that contravene national and regional conservation and management measures and are inconsistent with flag state responsibilities under international law. Fishing activities are considered:

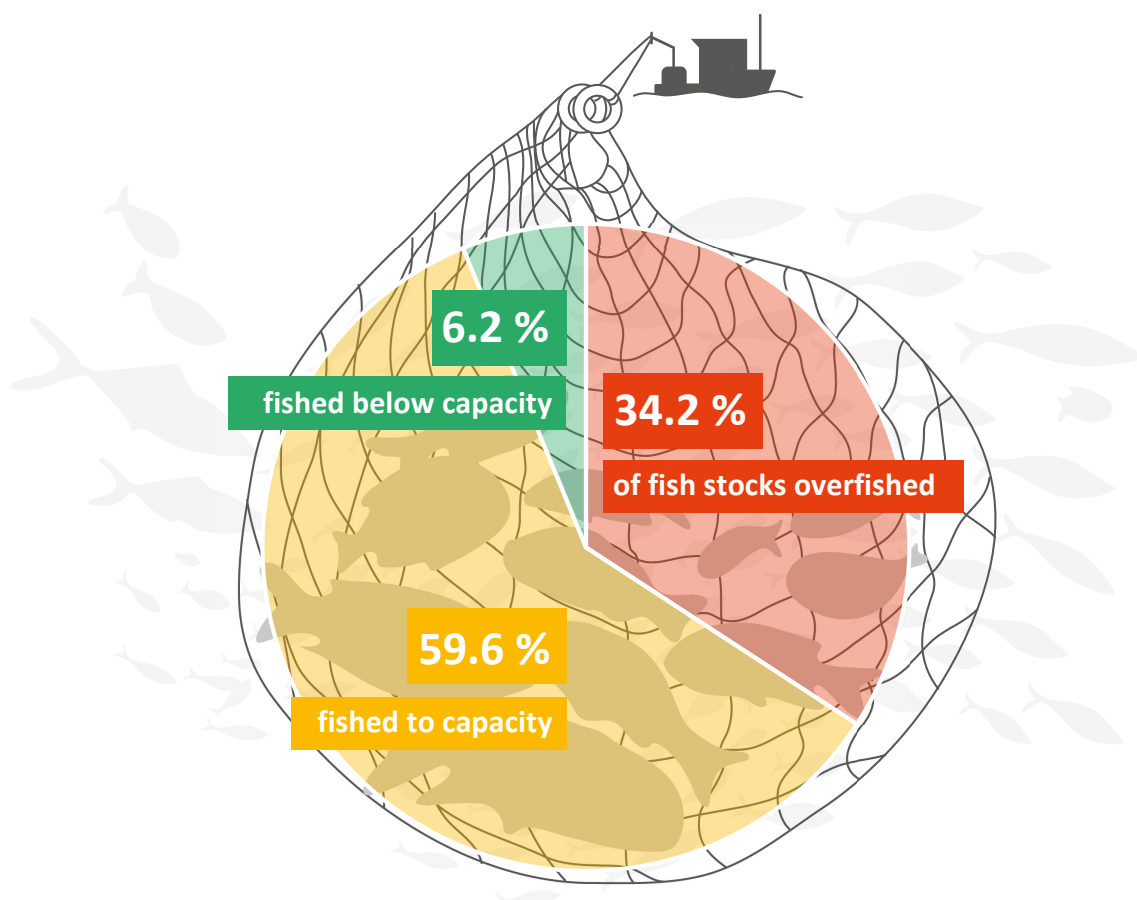
- **illegal** when they are conducted without a licence or authorisation, against conservation and management measures, or against national laws/ international obligations;
- **unreported** when they are not reported or misreported to the relevant authorities;
- **unregulated** when they are conducted in areas with no applicable conservation and management measures and conducted in a manner inconsistent with State

<sup>5</sup> For full definition, see the [International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing](#) and [FAO Port State Measures Agreement](#).

responsibilities for the conservation of living marine resources, or when the fishing vessel has no nationality.

**05** The Food and Agriculture Organization (FAO) estimates that around 94 % of global fish stocks are fully exploited or overexploited<sup>6</sup> (see [Figure 2](#)). Illegal, unreported and unregulated fishing depletes fish stocks, posing one of the greatest threats to marine ecosystems, undermining efforts to manage fisheries sustainably<sup>7</sup> and pushing some to the brink of collapse<sup>8</sup>.

**Figure 2 – Exploitation of fish stocks**



*Note:* These percentages treat all fish stocks equally regardless of their biomass and catch.

*Source:* ECA, based on [FAO data](#).

<sup>6</sup> The State of World Fisheries and Aquaculture 2020.

<sup>7</sup> [FAO website on illegal, unreported and unregulated fishing](#).

<sup>8</sup> [One Ocean Summit: new steps strengthen EU leadership in protecting the Ocean](#).



**06** While it is difficult to determine the exact extent of illegal, unreported and unregulated fishing, a study on this subject<sup>9</sup> estimated it at 10 to 26 million tonnes worldwide in the early 2000s, i.e. 11 to 19 % of reported catches, worth \$10 to \$23 billion.

## Global response to illegal, unreported and unregulated fishing

**07** From net to plate, fishery products can be caught, transhipped, landed, stored, processed, transported and sold along highly complex, globalised supply chains. Combating illegal fishing therefore requires a global response from all involved, including sovereign nations in their capacity as flag, coastal, port and market states (see [Figure 3](#)).

### Figure 3 – Responsibilities of flag, coastal, port and market states



#### Flag state

All sovereign states can grant their flag to a fishing vessel as long as there is a genuine link between that vessel and the flag state. Flag states must exercise effective jurisdiction and control over all vessels flying their flag, wherever they operate.



#### Coastal state

Coastal states must exercise jurisdiction over all fishing activities in their exclusive economic zone (EEZ). Coastal states have primary responsibility for adopting and enforcing conservation and management measures in their exclusive economic zone.



#### Port state

Port states should impose conditions for the entry of foreign-flagged vessels into their ports and conduct inspections, to ensure that vessels engaged in illegal, unreported and unregulated fishing activities cannot land their catches.



#### Market state

Market states should ensure that imported products are not derived from illegal, unreported and unregulated fishing and ensure transparency of the marketing and trade of fisheries products, in line with fisheries conservation and management measures.

Source: ECA.

<sup>9</sup> Estimating the Worldwide Extent of Illegal Fishing, David J. et al, 2009.

**08** The UN and the FAO have each developed and adopted a range of legally binding instruments, plans of action and voluntary guidelines. These provide an international framework for responsible fisheries and the fight against illegal, unreported and unregulated fishing. These are set out in [Annex I](#).

**09** Regional Fisheries Management Organisations are key stakeholders in international fisheries management. They comprise countries with fishing interests in a given area and are responsible for the joint management of straddling and highly migratory fish stocks. Most of these organisations are empowered to set binding catch and fishing effort limits, technical measures and control obligations for their members. The EU is party to all major international instruments and a member of 18 Regional Fisheries Management Organisations and fisheries bodies<sup>10</sup>.

**10** The fight against illegal, unreported and unregulated fishing falls within the Sustainable Development Goals set by the UN General Assembly in 2015<sup>11</sup>. Sustainable Development Goal 14, 'Life below water', set an ambitious target for sustainable fishing (14.4): 'By 2020, effectively regulate harvesting, and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices (...)'. The EU has been committed to achieving this target to end illegal fishing by 2020<sup>12</sup>. This target has not been met<sup>13</sup>, unsustainable fishing persists<sup>14</sup> and there is still a risk that products derived from illegal, unreported and unregulated fishing (hereafter "illegal fishery products") are sold on the EU market.

## **EU framework for combating illegal, unreported and unregulated fishing**

**11** Fisheries policy is an exclusive competence of the EU, meaning that only the EU can legislate and adopt binding acts on the conservation of marine biological resources under the common fisheries policy. This policy sets the rules for the management of the European fishing fleet and the conservation of fish stocks. For example, EU rules

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<sup>10</sup> [Regional Fisheries Management Organisations](#).

<sup>11</sup> [United Nations Sustainable Development Goals](#).

<sup>12</sup> [Joint Communication: 'International ocean governance: an agenda for the future of our oceans'](#).

<sup>13</sup> [Europe Sustainable Development Report 2021](#).

<sup>14</sup> [Status of marine fish and shellfish stocks in European seas](#).

set quotas and minimum fish sizes for certain fisheries. The EU also regulates fishing gear and can prohibit fishing in certain areas or seasons.

**12** An important component of EU fisheries policy is the common market organisation regulation. This sets EU marketing standards for fishery products and consumer information requirements (labelling) to allow consumers to make informed purchasing choices. For example, the label must indicate the commercial designation, the production method, the catch area and the fishing gear. There is no EU label certifying the sustainability of fishery products.

**13** Under the common fisheries policy, the EU has adopted the following main regulatory instruments and allocated funding to combat illegal, unreported and unregulated fishing.

#### **EU regulatory framework**

**14** The [Illegal, unreported and unregulated fishing regulation](#) (mainly concerning imports) and [fisheries control regulation](#) (mainly focusing on compliance by EU fishers) are the main regulatory instruments for combating illegal fishing.

**15** The [illegal, unreported and unregulated fishing regulation](#) is the main EU instrument for preventing, deterring and eliminating such fishing. It requires Member States to take action against fishing vessels and EU nationals engaged in illegal fishing activities anywhere in the world. The two most prominent features of this regulation are the catch certification scheme and the carding system. The first aims to ensure the legality of imports and the second identifies 'third countries' (non-EU countries) that are not cooperating in the fight against illegal fishing.

**16** The [fisheries control regulation](#) focuses on EU fleet activities, establishing an EU-wide control system for ensuring compliance with the common fisheries policy. It applies to all fishing activities in EU waters and all those carried out elsewhere by EU vessels. It is complemented by the [regulation on the sustainable management of the external fishing fleet](#). This regulation focuses on the control of third-country fishing vessels operating in EU waters and EU vessels fishing elsewhere.

**17** The [control regulation](#) contains provisions for Member States and operators, with the objective of preventing and combating illegal fishing. These include:

- monitoring access to waters and to resources;

- controlling the use of fishing opportunities and capacity;
- ensuring appropriate enforcement measures in the event of infringements;
- enabling the traceability and control of fisheries products throughout the supply chain, from net to plate.

**18** In April 2017, the European Commission published its evaluation of the fisheries control regulation<sup>15</sup>, concluding that the effectiveness of the control system was hindered by shortcomings in the design of the regulation. The Commission proposed a number of amendments to the control regulation in its proposal on the revision of the EU fisheries control system of 31 May 2018<sup>16</sup>. The proposal had not been adopted by May 2022.

#### **Use of EU funds**

**19** The EU provides funding to support fisheries control. The [European maritime and fisheries fund \(EMFF\)](#) financed EU maritime and fisheries policies for 2014-2020. Under European Union Priority 3, 'Fostering the implementation of the common fisheries policy', the fund supported monitoring, control and enforcement activities with a total budget of €580 million. Its successor, the European maritime, fisheries and aquaculture fund, will continue to support control measures for 2021-2027. At least 15 % of the EU financial support per Member State, totalling €797 million, is planned to be allocated to fostering efficient fisheries control and enforcement, together with reliable data for knowledge-based decision-making. These amounts are complemented by national co-financing.

#### **Roles and responsibilities**

**20** The Commission's Directorate-General for Maritime Affairs (DG MARE) is the main body responsible for overseeing the common fisheries policy. The European Fisheries Control Agency (EFCA) promotes and coordinates the development of uniform risk management methodologies, and organises training and coordination/cooperation between national control and inspection authorities. The Member States are responsible for implementing key requirements of the common fisheries policy such as inspecting vessels, checking imports and applying sanctions.

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<sup>15</sup> [Commission report on the implementation and evaluation of regulation \(EC\) 1224/2009.](#)

<sup>16</sup> [Proposal for a new control regulation \(COM/2018/368 final\).](#)

## Legality does not guarantee sustainability

**21** The legal framework described above aims to ensure that all fishery products sold in the EU are legal. It should guarantee to EU consumers that the products they consume are not derived from illegal, unreported or unregulated fishing. However, ensuring the legality of a product does not guarantee that it is sustainably sourced.

**22** For imported products, the EU catch certification scheme aims to ensure that flag states certify the legality of all imported fishery products based on their own control and monitoring systems. Fishing vessels must comply with the rules imposed by the flag state and, when applicable, the competent Regional Fisheries Management Organisation or coastal state. The scheme cannot ensure that these rules, adopted outside the EU, are sufficiently stringent to guarantee sustainability. For example, even when a coastal state does not impose rules to curb overfishing or environmentally harmful fishing practices, catches in the area are considered legal.

**23** Similarly, for the activity of the EU fleet, ensuring compliance with EU rules does not mean that the rules themselves are sufficient to ensure the sustainability of fish stocks and their habitats. The European Environment Agency reported in 2019 that the 'overexploitation of commercial fish and shellfish stocks continues across Europe's seas'. Our 2020 special report 'Marine environment: EU protection is wide but not deep'<sup>17</sup> concluded that EU actions to protect the marine environment had resulted in measurable progress in the Atlantic, but the Mediterranean remained significantly overfished.

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<sup>17</sup> Special report 26/2020, 'Marine environment: EU protection is wide but not deep', see also Report on the performance of the EU budget – Status at the end of 2020.

## Audit scope and approach

**24** We examined the EU framework for preventing products derived from illegal, unreported and unregulated fishing from ending up on EU citizens' plates. The European Parliament asked the ECA to report on this issue in 2018 and 2021. We also looked at EU spending and action from 2014 to 2020. We chose this topic because of the impact of illegal fishing on the sustainability of marine resources. We focused on the effectiveness of:

- the control systems for preventing the import of fishery products derived from illegal, unreported and unregulated fishing into the EU, including whether the Commission targeted its actions to address key risks and whether Member States performed effective checks;
- Member States' control systems for checking national fleets and waters, including whether EU funding targeted significant risks and achieved results.

**25** In our audit work, we:

- examined reports by the Commission and relevant agencies, and actions related to fisheries control and enforcement;
- interviewed national authorities responsible for fisheries control in Denmark, Spain, France and Sweden, selected due to the size of their fishing sector and trade flows with third countries, the amount of EU funding they receive for control, and geographical balance;
- visited the Swedish authorities responsible for fisheries control, observing the work of the Swedish Fishery Monitoring Centre, an inspection at the fish market and an in-port vessel inspection. Due to the COVID-19 pandemic travelling restrictions, we were only able to visit Sweden on the spot during the timing allocated for our audit work;
- compared the scope and main features of the EU catch certification scheme with similar systems in the USA and Japan;
- examined 23 EU-funded projects related to fisheries control worth €26.9 million implemented over the 2014-2020 programme period. We selected these projects to cover a wide variety of expenditure and investments, such as patrol vessels, innovative technology and operational costs.

**26** With this report, we aim to contribute to policy discussions and legal developments regarding the fight against illegal, unreported and unregulated fishing.

## Observations

**27** The observations are presented in two main sections. The first covers the import control system for fishery products and the second Member States' control systems for checking national fleets and waters.

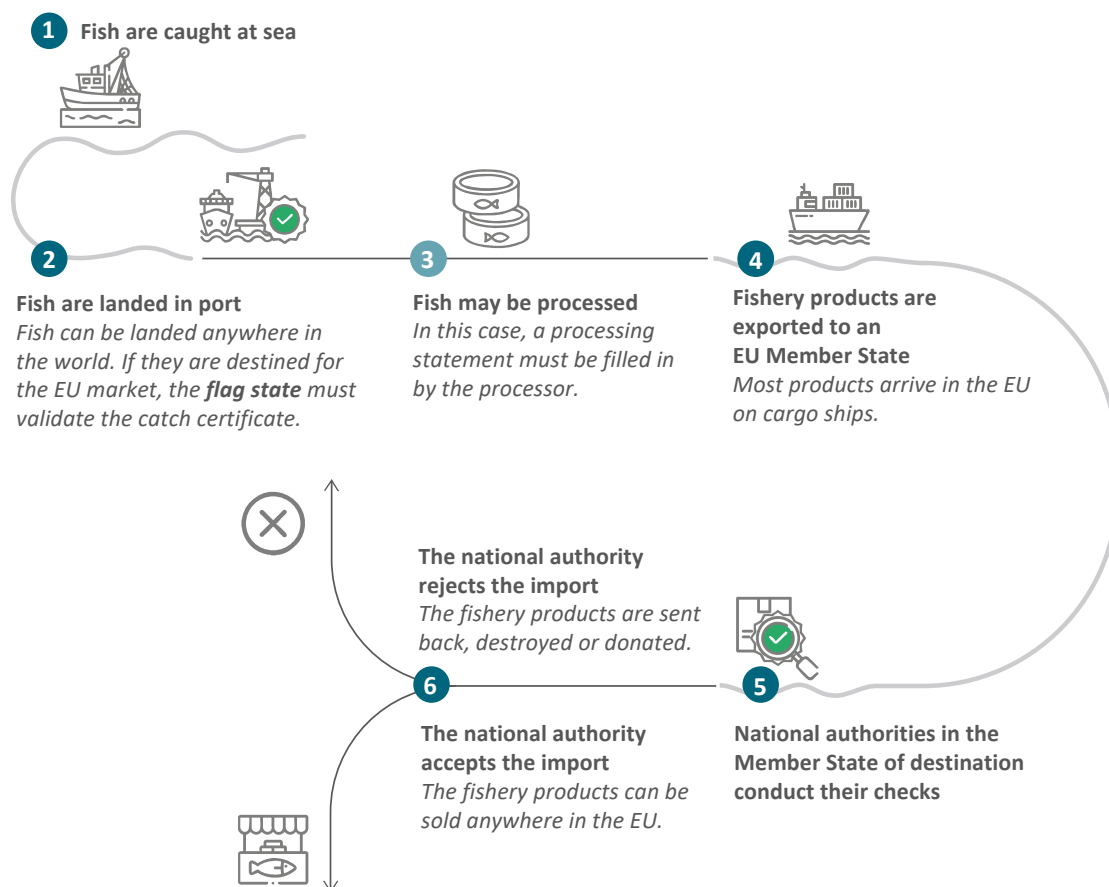
### **Import control system has reduced the risks of illegal fish on EU market but Member States' checks are uneven**

#### **EU catch certification scheme improved traceability and reinforced import control**

**28** The EU adopted the illegal, unreported and unregulated fisheries regulation in 2008, creating the innovative EU catch certification scheme. See [Figure 4](#) for details of the scheme.



Figure 4 – The catch certification scheme



Source: ECA.

**29** We found that this scheme closed an important control loophole, as the legality of imported fishery products was not checked prior to its entry into force, with the exception of some region-specific rules, which did include a catch documentation scheme. Under the scheme, all marine fishery products exported to the EU must be accompanied by a catch certificate validated by the flag state of the fishing vessel. The certificate enables the traceability of fishery products throughout the supply chain to the entry into the EU. It is the responsibility of the flag state to certify that fishery products are not derived from illegal, unreported and unregulated fishing activities and verify their compliance with applicable conservation and management rules.

**30** We carried out a benchmarking exercise to compare the EU catch certification scheme with similar systems in the USA and Japan. These are the second and third

largest importers in the world<sup>18</sup>. We contrasted the schemes in terms of species coverage, information requirements and control mechanisms.

**31** In the USA, the Seafood Import Monitoring Program (SIMP)<sup>19</sup> established permitting, reporting and recordkeeping procedures for the importation of fishery products identified as vulnerable to illegal, unreported and unregulated fishing or fraud. This concerns 13 types of seafood and nearly half of all US seafood imports<sup>20</sup>.

**32** Japan currently has no national catch documentation scheme for imported fishery products, although a scheme is pending under a new law to combat illegal, unreported, and unregulated fishing. Instead, it relies on Regional Fisheries Management Organisations schemes<sup>21</sup>, to which the EU and USA are also contracting parties. The EU recognises these catch documentation schemes for seafood products entering its market<sup>22</sup>.

**33** We found the EU's catch certification scheme to be the most comprehensive in terms of scope, information required, and validation and control processes.

- **The EU scheme has the most comprehensive coverage: almost all fishery products must be traceable and certified.** Contrary to other schemes, the EU scheme covers all processed and unprocessed wild-caught marine fish imported from third countries into the EU market.
- **The EU and US schemes have broad information requirements allowing detailed traceability.** These schemes collect more detailed information than those set up by Regional Fisheries Management Organisations in many cases.
- **The EU scheme has the most comprehensive validation and control system.** In the EU, each consignment must be accompanied by a certificate validated by the

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<sup>18</sup> National Fisheries Marine Service, Current fisheries statistics No 2019, Japan FY2019 Trends in Fisheries FY2020 Fisheries Policy.

<sup>19</sup> Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program.

<sup>20</sup> SIMP: Report to Congress Efforts to Prevent Seafood Harvested through IUU fishing.

<sup>21</sup> CCSBT, ICCAT and CCAMLR.

<sup>22</sup> Commission regulation (EC) No 1010/2009.

flag state, and Member State authorities must perform risk-based checks and verifications.

**34** *Annex II* sets out further details of our benchmarking exercise (EU catch certification scheme and similar systems in the USA and Japan).

### Significant differences in scope and quality of checks by Member States weaken the system

**35** Every two years, Member States must submit a report to the Commission on their application of the [illegal, unreported and unregulated fishing regulation](#). The latest data available is from 2019 (including data for the United Kingdom), when every Member State except Luxembourg submitted a report. The European Fisheries Control Agency produced an analysis of the Member States' reporting, providing an overview of the implementation of the regulation by Member States.

**36** According to this analysis, around 2 000 foreign vessels, mainly from Norway, Venezuela and the Faroe Islands, landed their catches directly in an EU port in 2019. EU port states were required to inspect at least 5 % of landed catches and the average inspection rate was around 20 % for the whole of the EU, although Poland and Denmark failed to meet the 5 % requirement. Port inspections helped detect infringements in 11 % of cases, mostly concerning reporting obligations.

**37** Most imported fishery products are not landed directly from a fishing vessel in an EU port. Instead, the products are landed elsewhere in the world and transported to the EU on cargo ships. The [illegal, unreported and unregulated fishing regulation](#) requires checks to take place in the destination Member State rather than at the EU entry point. Once accepted, products can be sold anywhere in the EU. Member State checks must therefore be robust enough to prevent 'control shopping', where operators exploit the weakest link in the control system. This risk was highlighted by control authorities we interviewed in two Member States and in a 2018 study<sup>23</sup>.

**38** In 2019, Member State authorities received around 285 000 catch certificates and 35 000 processing statements from third countries. On the basis of risk management,

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<sup>23</sup> [The impact of the EU IUU regulation on seafood trade flows.](#)

the [illegal, unreported and unregulated fishing regulation](#) requires Member States to check that:

- catch certificates are completed and validated by the flag state (correct signature and stamp);
- the flag state is authorised to export to the EU and not identified by the EU as non-cooperating in the fight against illegal fishing ('red-carded', see paragraph 50), and the fishing vessel is not listed as a vessel engaged in illegal fishing;
- catch certificates for processed products specify the same species and quantity as the processing statement.

**39** Member States may carry out further, more detailed checks (called 'verifications'), based on a risk analysis. A verification is required if there is any doubt over catch certificate authenticity or vessel compliance with applicable rules, or any suspicion of illegal, unreported and unregulated fishing.

**40** The scope of the verifications depends on the control authorities in Member States. They may involve cross-checking all documents for consistency (e.g. catch certificates, processing statements, transport documents), or seeking evidence from external sources (valid vessel licence, authorisation to fish in the reported catch area, suspicion of involvement in illegal fishing by vessel owner / beneficial owner, consistency between trade patterns and known fishing activities, etc.). A verification may also include a physical inspection of the product, for example if there are doubts about the species.

**41** Overall, Member States reported having performed either basic or more detailed checks on around 64 % of the catch certificates they received. Five Member States (Germany, Lithuania, Malta, Portugal and Sweden) reported they had only performed the more basic checks, while Belgium, Finland, Italy and Romania did not report any information on this matter.

**42** Sometimes the verification raises doubts and Member State authorities must request additional information from the flag state to confirm the validity of importer-submitted documents. In 2019, there were more than 1 000 instances of this across 19 Member States. Four Member States (Hungary, Romania, Sweden and Slovakia) did not request additional information from any third countries between 2016 and 2019.

**43** The *illegal, unreported, and unregulated fishing regulation* requires Member States to reject imports if they do not receive pertinent answers to their questions. Austria, France and Poland reported in their biennial reports that while some third countries answered their request fully, others simply confirmed the validity of the certificate and declined to provide additional documentation.

**44** In 2019, authorities in ten Member States rejected 29 imports (less than 0.01 % of all catch certificates received that year), mainly due to the absence of a valid catch certificate or inconsistencies between the document and products. In most cases, the products were sent back to the exporting country.

**45** Our analysis of the control systems for imported products in Denmark, Spain, France and Sweden confirmed that the scope and quality of checks varied significantly between Member States, as did the degree of sophistication of IT systems (see *Table 1*). We rank these as low, medium, and high.

**Table 1 – Import checks and verifications by four Member States**

| Member State | Level of IT sophistication   | Scope and quality of checks  |
|--------------|--|--|
| Denmark      | <b>LOW</b>   | <b>MEDIUM</b>  |
|              | <ul style="list-style-type: none"> <li>no IT system for managing catch certificates or performing checks</li> <li>all documents received in paper form, scanned and recorded in Excel spreadsheet</li> </ul> | <ul style="list-style-type: none"> <li>systematic basic check on all incoming catch certificates, excepting two 'low risk' third countries (only a quarter of imports checked)</li> <li>for all checked documents, comparison of information coherence and consistency</li> <li>check on vessel authorisation when import of species and area covered by an Regional Fisheries Management Organisation</li> <li>frequent physical inspections</li> <li>catch certificates with errors and imports from yellow-carded countries subject to in-depth verification (may involve contacting flag state authorities)</li> <li>checks of importers</li> <li>no access to customs system</li> </ul> |

| Member State  | Level of IT sophistication   | Scope and quality of checks  |
|---------------|--|--|
| <b>Spain</b>  | <b>HIGH</b>  | <b>HIGH</b>  |
|               | <ul style="list-style-type: none"> <li>dedicated web platform for importers to input data and attach scanned documents</li> <li>automated checks and risk analysis using multiple risk parameters</li> <li>integration of systems for customs and management/control of illegal fishing</li> </ul>                                   | <ul style="list-style-type: none"> <li>systematic basic check on all incoming catch certificates</li> <li>systematic check on document completeness and coherence</li> <li>catch certificates with errors sent for in-depth second-level checks by specialised illegal fishing investigation unit</li> <li>frequent requests to importers and flag state</li> <li>physical inspections possible</li> <li>cooperation with customs</li> </ul> |
| <b>France</b> | <b>MEDIUM</b>  | <b>HIGH</b>  |
|               | <ul style="list-style-type: none"> <li>use of customs system, no specific capability for catch certificates</li> <li>automated risk analysis selects catch certificates for in-depth verification based on import declaration</li> <li>scanned copies stored on servers, no central database, checks documented in system</li> </ul> | <ul style="list-style-type: none"> <li>systematic basic check on all incoming catch certificates</li> <li>completeness check</li> <li>discrepancies/ high risk trigger in-depth checks by specialist</li> <li>occasional physical inspections (including DNA analysis)</li> <li>frequent verification requests to flag state</li> </ul>  |
| <b>Sweden</b> | <b>MEDIUM</b>  | <b>LOW</b>   |
|               | <ul style="list-style-type: none"> <li>dedicated web platform for importers to input data and attach scanned documents</li> <li>no risk analysis or automated check but authority can document checks and validate certificates in system</li> </ul>   | <ul style="list-style-type: none"> <li>no check on catch certificates from one 'low-risk' third country (representing more than 80 % of imports)</li> <li>check on sample of catch certificates from other countries</li> <li>only basic checks performed</li> <li>no access to customs database, no checks of importers</li> <li>no physical inspections</li> <li>no in-depth checks, no verification with flag state</li> </ul>            |

Source: ECA.

## EU catch certification scheme is paper-based, which reduces efficiency and increases risk of fraud

**46** The EU catch certification scheme is still paper-based. While some third countries (Norway, the USA and the UK) validate and transmit electronic catch certificates, importers from other countries send scanned copies of documents to the Member State authorities.

**47** There is no EU-wide database of catch certificates received by Member States, and information in one Member State is not available to the others. The lack of digitalisation and systematic information-sharing between Member States poses multiple challenges to the efficiency and effectiveness of the control system:

- **Slower processing time and administrative burden:** Member State authorities must collect, process, and store all catch certificates and processing statements in paper form. In 2019, this represented over 300 000 documents. However, Germany, Spain, Finland, the Netherlands and Sweden<sup>24</sup> have developed their own IT systems requiring importers to input all relevant data and attach a scanned copy of the documents, reducing the burden on the administration and the processing time for the importer.
- **Fraud risk:** Paper documents stamped and signed by third countries are more easily forged than digitally signed documents. The lack of information-sharing across the EU means that duplicate certificates may be fraudulently submitted in multiple Member States.
- **Lost opportunity to automate control and cross-checks:** A single database would allow data mining and automated alerts by cross-checking all data submitted in all Member States in real time. While some Member States have developed sophisticated IT systems with automated checks<sup>25</sup>, others are still working without any IT tools.

**48** To address these shortcomings, Member States repeatedly asked the Commission to establish an EU-wide IT system to track catch certificates and facilitate verification. The Commission therefore developed its 'CATCH' tool to help Member States detect fraud and abuse of the paper-based system while simplifying and speeding up checks and verifications.

**49** The CATCH system became available in 2019, but no Member State uses it. The authorities in the four Member States covered in this audit explained that they did not see the need or added value unless all Member States used CATCH. The Commission proposal amending the fisheries control regulation intends to make CATCH mandatory in the EU.

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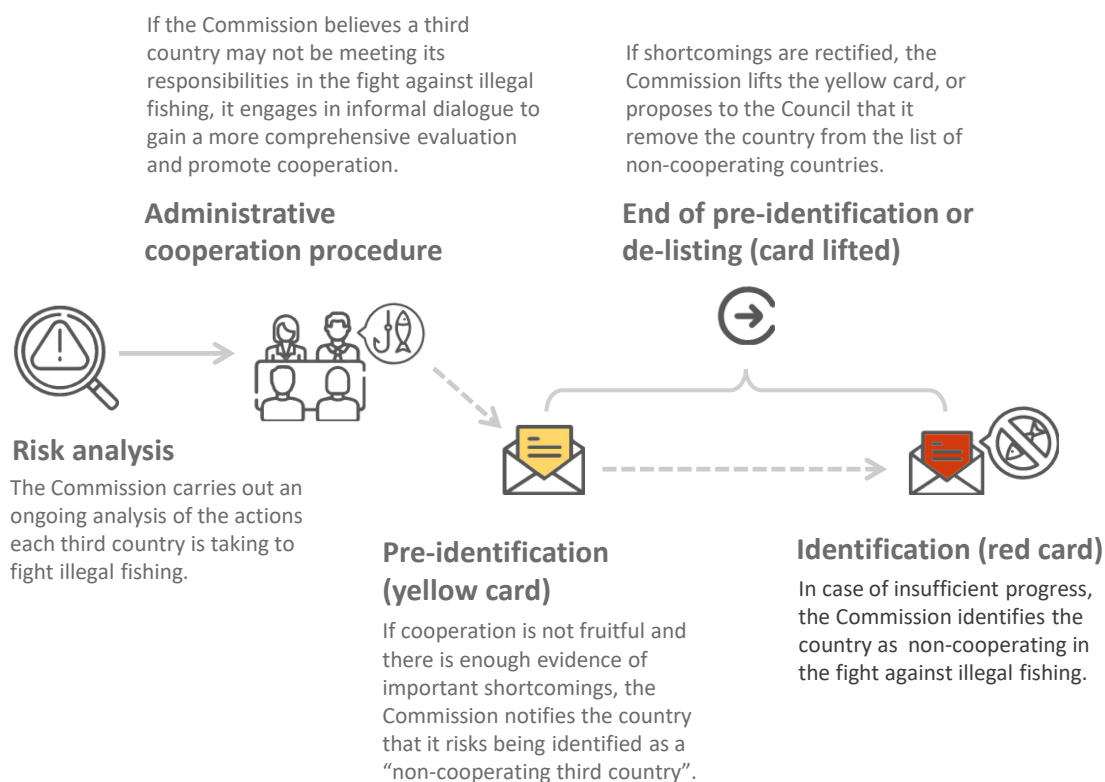
<sup>24</sup> Client Earth, [Digitising the control of fishery product imports](#).

<sup>25</sup> Client Earth, [Digitising the control of fishery product imports](#).

## EU carding system has proven useful, but often impacts countries with only minimal EU fish trade and loopholes exist

**50** The catch certificate scheme relies on third countries to operate effective control systems when certifying catches from fishing vessels flying their flag. When a flag state's control system is deficient in key aspects, validated catch certificates do not guarantee the legality of products exported to the EU. The identification of non-cooperating third countries, commonly known as a “red card” under the “carding system” is therefore essential to prevent this. The functioning of the carding system is presented in *Figure 5*.

**Figure 5 – The carding system**



Source: ECA.

**51** The Commission developed a step-by-step methodology for its administrative cooperation with third countries and the procedure for identifying non-cooperating third countries under the [illegal, unreported and unregulated fishing regulation](#). We reviewed the methodology in place to check whether the Commission focused on the right risks and based its decision on transparent and objective criteria.

**52** The Commission gathers information on third country action against illegal fishing from a wide range of sources. These include Member States, the FAO, Regional





Fisheries Management Organisations and non-governmental organisations. If there are indications that a third country may not be complying with international fisheries laws or its responsibilities as a flag, coastal, port or processing state, the Commission may decide to engage in administrative cooperation with that country in order to perform a more comprehensive evaluation.

**53** The Commission evaluates the country's compliance based on a questionnaire sent to the country's authorities, in most cases a European Fisheries Control Agency analysis of a sample of catch certificates and processing statements from that country, and, in agreement with the national authorities, (an) on-the-spot evaluation(s).

**54** If the Commission detects serious problems, it can support the country via capacity-building seminars or guidance to improve the national system. In most cases, the country undertakes the necessary reforms and improvements and there is no need to issue a formal warning. If there is enough evidence of significant shortcomings and the informal dialogue does not yield results, the Commission notifies the country that it risks being identified as a 'non-cooperating third country' ("yellow card").

**55** The Commission notifies the third country with a pre-identification decision, setting out its reasoning (see [Figure 6](#)) based on criteria established in the [regulation](#). This decision is accompanied by an action plan. It proposes measures to remedy the problems detected, with an initial (extendable) deadline of six months. During this period, the Commission continues to cooperate with the country and provide technical assistance.

**Figure 6 – Main shortcomings identified by the Commission in carded countries**

|   |  |
|---|--|
|  <p><b>National legal framework</b></p>                      | <ul style="list-style-type: none"> <li>• National legal framework not in line with international obligations</li> <li>• No national plan of action on illegal, unreported and unregulated fishing</li> <li>• No comprehensive and effective sanctioning system</li> <li>• No provisions for the control of nationals in legislation</li> </ul> |
|  <p><b>Regional and multilateral cooperation</b></p>         | <ul style="list-style-type: none"> <li>• No ratification of key international instruments</li> <li>• No compliance with Regional Fisheries Management Organisations rules</li> <li>• Presence of vessels on illegal fishing lists</li> </ul>   |
|  <p><b>Fisheries management and conservation</b></p>         | <ul style="list-style-type: none"> <li>• Lack of effective monitoring, control, and surveillance system</li> <li>• Shortcomings in the vessels' registration, licensing, and authorisations (flag of convenience)</li> <li>• Lack of transposition, compliance and/or implementation of conservation and management measures</li> </ul>        |
|  <p><b>Catch certification scheme and traceability</b></p> | <ul style="list-style-type: none"> <li>• Inefficient controls and verifications before validating catch certificates and processing statements</li> <li>• Unreliable traceability procedures</li> </ul>  |

Source: ECA, based on Commission information.

**56** While pre-identification does not involve any sanctions, the warning is generally sufficient to spark relevant reforms. Since launching the carding system, the Commission has issued yellow cards to 27 third countries. Fourteen yellow cards were lifted after one to four years following significant reforms in the countries concerned. We found evidence that the yellow card and ensuing cooperation led to positive changes (see [Box 1](#)).

### Box 1 – Positive changes in Thailand following EU warning

*Thailand is a major hub for tuna processing, with a significant fishing fleet.*

In 2011, a Commission evaluation highlighted several weaknesses concerning the validation of catch certificates and processing statements in Thailand, together with an inadequate control system and legal framework.

The ensuing cooperation with Thailand did not lead to significant progress and in 2015 the Commission issued a '**yellow card**'.

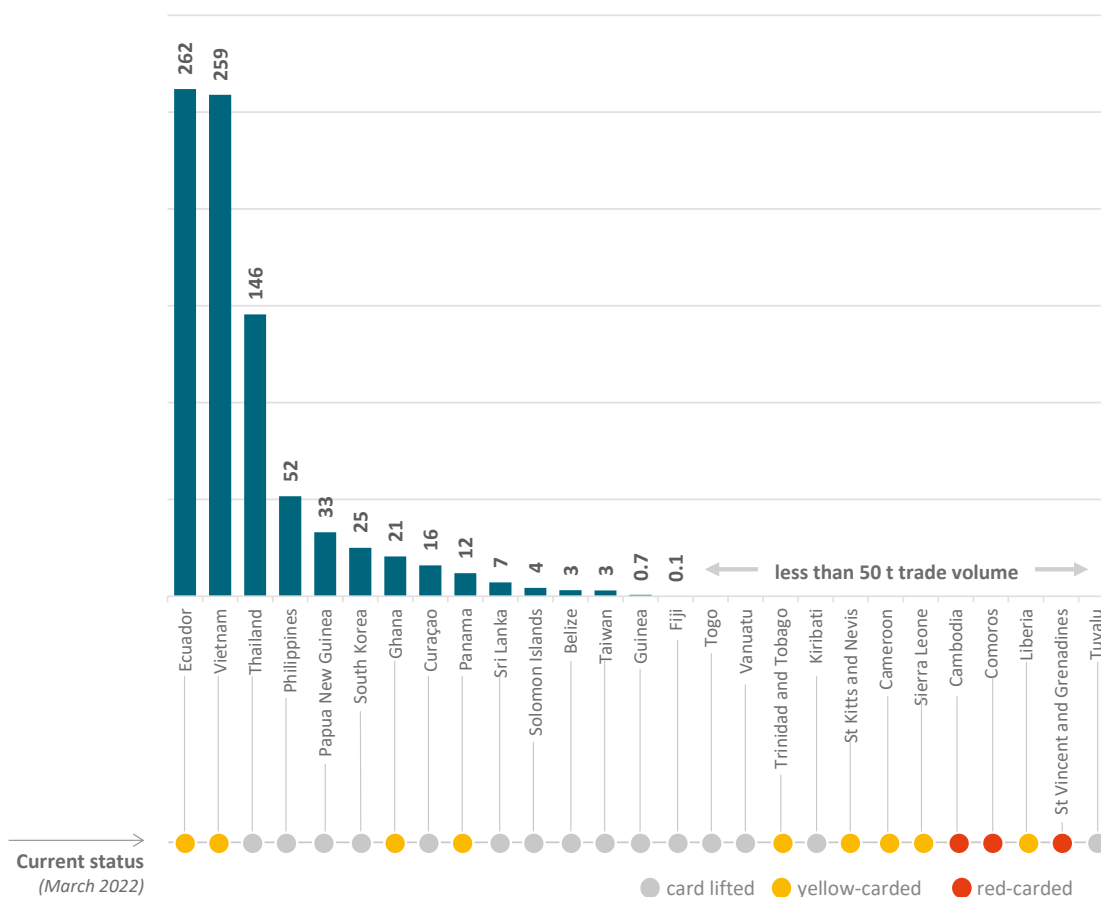
The Thai authorities then:

- adopted new fisheries laws and regulations in line with international best practice;
- imposed criminal sanctions in the most serious cases of illegal, unreported and unregulated fishing;
- set up a new control system and improved traceability of landings and processing.

As a result, **the yellow card was lifted** in 2019. The Commission and the Thai authorities created a working group to promote continuous dialogue.

**57** Some countries that have been carded in the past are important trading partners with substantial exports to the EU (e.g. Thailand, Ecuador and Vietnam). Many others are not. The volume of fishery product trade between the EU and 14 of the 27 countries is minimal to non-existent (see [Figure 7](#)). Some have not informed the Commission which body is their certifying authority and thus are not authorised to trade fishery products. Thus, there appears to be little risk of fish products from illegal, unreported and unregulated activities entering the EU market from these countries.

Figure 7 – Trade volume with carded countries (in thousand tonnes)



*Note:* Trade volume in tonnes for the year preceding the carding decision. Data provided in this Figure does not take into account indirect trade in fishery products from carded countries' vessels, supplied to other third countries before being exported to the EU.

*Source:* ECA, based on Eurostat data.

**58** The Commission justifies the focus on countries whose EU fish trade is minimal by the fact that they act as a 'flag of convenience' (see [Box 2](#)). There are multiple interactions between operators and competent authorities in flag, coastal, port and market states throughout the supply chain. Failure by these countries to meet their obligations therefore poses a risk of illegal, unreported and unregulated fishing activities and compromises traceability, which could result in products derived from illegal fishing being imported into the EU market.

## Box 2 – Flags of convenience and illegal, unreported and unregulated fishing

In its 2020 report ‘Off the Hook’<sup>26</sup>, the Environmental Justice Foundation exposes the lack of transparency in the global fishing sector as a key enabler of illegal, unreported and unregulated fishing.

The term ‘flag of convenience’ refers to the granting of a country’s flag to foreign vessels for monetary gain. Flags of convenience fail to ensure that there is a genuine link between the vessel ownership and control and the flag country. They enable operators to conceal their identities and avoid sanctions when engaging in illegal, unreported and unregulated fishing, often by changing flags (‘flag hopping’).

When these countries also fail to monitor the activities of the fishing fleet flying their flag, their inadequate control systems may attract operators engaged in illegal, unreported and unregulated fishing.

***In total, 13 countries given a yellow or red card by the Commission were listed by the Foundation as offering flags of convenience.***

**59** In the absence of sufficient efforts by the national authorities to rectify the problems detected, the Commission may identify the country as a ‘non-cooperating third country’ (“red card”). A red card means that Member States must reject all imports of fishery products from that country’s vessels. Following identification, the Commission proposes an implementing decision to the Council listing the country as ‘non-cooperating’. This triggers further restrictive measures once adopted, banning EU vessels from fishing in the waters of the listed country and denouncing existing fisheries partnerships.

**60** There is no international legal basis to prevent the reflagging of a fishing vessel, nor to prevent third country vessels from operating in the exclusive economic zone of carded countries. Therefore, a loophole limiting the economic impact of red cards is that vessels flagged by a ‘non-cooperating’ flag state can nonetheless reflag elsewhere, and third-country vessels can still operate in that country’s exclusive economic zone. In both cases, their certified catches can be legally exported to the EU.

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<sup>26</sup> [Off the hook - How flags of convenience let illegal fishing go unpunished.](#)

**61** Of the 27 procedures initiated since 2012, six resulted in a red card (see example in [Box 3](#)). Three of these countries have since been delisted.

### Box 3 – EU measures taken against Comoros

*Comoros boasts a vast exclusive economic zone in a tuna-rich area. In 2006, the EU and Comoros signed a fisheries partnership agreement allowing EU vessels to fish in Comorian waters.*

Comoros was issued a **yellow card** in 2015, followed by a **red card** in 2017. The main reason was an inability to meet its flag state responsibilities.

- The national authorities did not exercise control over the activities of the Comorian fishing fleet. They had no information on location, catches, landings or transshipments outside their waters.
- The Regional Fisheries Management Organisations repeatedly identified compliance issues and evidence of illegal fishing activities concerning Comorian vessels between 2010 and 2015.
- Despite this, Comoros did not sanction the vessels involved and its legal framework did not explicitly define illegal, unreported and unregulated fishing or provide for enforcement measures and sanctions.
- National authorities had delegated the management of the fishing fleet register to multiple representatives around the world, which offered an ‘open registry’ or flag of convenience.

Until the Council listing is removed and the red card lifted, imports of fishery products from Comorian-flagged vessels are banned, and EU vessels cannot fish in Comorian waters.

**62** The Commission can propose that the Council delist a red-carded country when the main shortcomings identified have been resolved and there is a political commitment to sustain efforts in combating illegal fishing and complying with international law.

**63** After a yellow or a red card has been lifted, the Commission continues to cooperate with the country and identify any backsliding as it arises. In Panama and Ghana, for example, the Commission followed up after lifting the yellow card and found reduced efforts to combat illegal, unreported and unregulated fishing. These two countries were pre-identified for a second time.

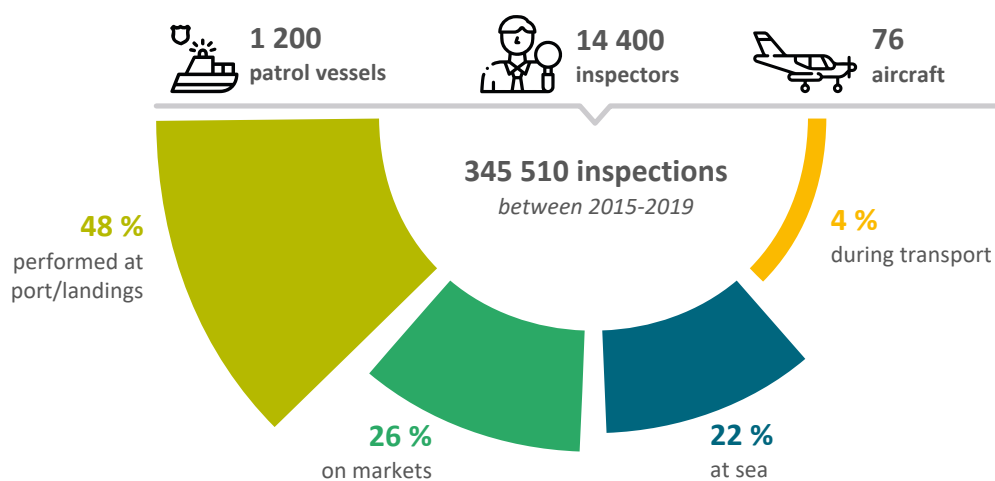
## Member States detected illegal fishing by national fleets and in national waters but sanctions are not always dissuasive

### Member State checks on national fleets and waters detected illegal fishing

**64** Member States are responsible for the correct application of the EU fisheries control system to ensure compliance with the common fisheries policy<sup>27</sup>. They must control fishing activities within their waters, and those of fishing vessels flying their flag, regardless of location. Around 20 % of catches by EU vessels take place in third countries or on the high seas<sup>28</sup>.

**65** *Figure 8* shows the resources allocated to control of fishing activities in EU waters or by the EU fleet.

**Figure 8 – Control capacity in the EU**



Source: ECA, based on the [Report on the application of Council regulation \(EC\) No 1224/2009](#).

**66** In five sea basins (the Eastern Atlantic and Mediterranean Sea, the Black Sea, the Baltic Sea, the North Sea, the Western Waters of the North Eastern Atlantic), certain fisheries are subject to Specific Control and Inspection Programmes (SCIPs). These programmes include common objectives, priorities and procedures for inspection activities by all Member States involved. To encourage closer collaboration and the exchange of best practices between Member States, the European Fisheries Control

<sup>27</sup> Control regulation.

<sup>28</sup> Fishing outside the EU.

Agency coordinates Joint Deployment Plans, where inspectors from different Member States participate in inspections. In 2020, 38 450 inspections were carried out by Member States and reported to the Agency as part of Joint Deployment Plans, detecting 2 351 infringements<sup>29</sup>.

**Picture 1 – Patrol vessel chartered by the European Fisheries Control Agency**



© European Fisheries Control Agency, 2005-2021.

**67** Member States report on the results of their control activities every five years. From 2015 to 2019, they conducted 345 510 inspections, with 13 %<sup>30</sup> identifying at least one suspected infringement and 6 % at least one suspected serious infringement. In total, Member States reported 69 400 infringements during this period, with over 76 % detected by just three Member States and the UK: Italy (46 %), the UK (12 %), Greece (11 %) and Spain (8 %).

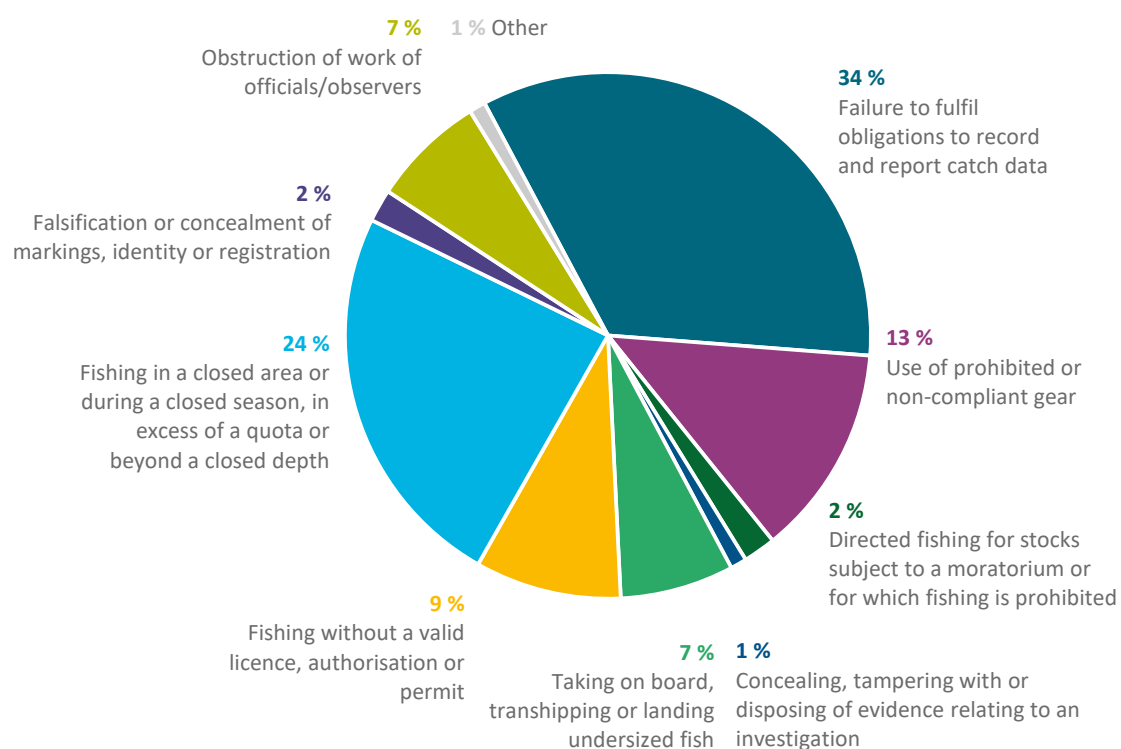
**68** *Figure 9* shows a breakdown of serious infringements by fishery activity.

<sup>29</sup> EFCA Annual Report for the year 2020.

<sup>30</sup> Synopsis Report of data provided by Member States.



**Figure 9 – Proportion of serious infringements by category (2015-2019)**



Source: ECA, based on [European Parliament data](#).

**69** Misreporting of catches remains a major issue in EU fisheries. One aspect is the failure to report unwanted catches (see [Box 4](#)).

#### Box 4 – Illegal discards and unreported catches

*It is common practice in the fishing industry to throw back unwanted catches at sea. These may be unwanted due to low commercial value or may be subject to a quota. As most discarded fish do not survive, the actual number of fish dying is far greater than landing and sales figures indicate. Another practice called “high grading”, consists of throwing back fish with commercial value for which the vessel has quotas, with the objective of optimising catches of larger specimens (grades) of the same species, which are sold at higher prices.*

##### **Landing obligation**

Fishing vessels must land and report all catches of certain species (barring exemptions) and deduct them from any applicable quotas. The aim is to encourage the fishing industry to adopt more selective fishing practices and help scientists gather accurate data on actual exploitation of fish stocks.

##### **Lack of enforcement**

Control and enforcement are challenging, as discards cannot easily be detected by traditional inspections. While some Member States<sup>31</sup> are piloting remote monitoring, the scale is insufficient. Reports<sup>32</sup> reveal that illegal discards are commonplace and compliance with the landing obligation is low.

In 2021, the Commission reported ‘*extensive, illegal and undocumented discarding of catches in several sea basins*’<sup>33</sup>.

### The Commission identified significant weaknesses in national control systems and has started to address them

**70** The Commission is responsible for overseeing and enforcing the correct application of the [fisheries control regulation](#) and common fisheries policy rules by all Member States<sup>34</sup>. It evaluates Member States through verifications, autonomous inspections and audits.

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<sup>31</sup> Bulgaria, Cyprus, Germany, Denmark, Estonia, Spain, Croatia, Ireland, Italy, Latvia, Malta, the Netherlands, Portugal.

<sup>32</sup> For example, [Landing obligation: First study of implementation and impact on discards, Report on control regulation](#).

<sup>33</sup> [Report on the application of Council regulation \(EC\) No 1224/2009](#).

<sup>34</sup> [Report on the application of Council regulation \(EC\) No 1224/2009](#).

**71** In 2021, the Commission reported on the results of its oversight of Member States from 2015 to 2019 period<sup>35</sup>. Its focus was on the proper weighing, registration and traceability of catches, control of the landing obligation, monitoring and control of the external fleet, and verification of engine power. All these measures are indispensable for the proper monitoring of quota uptake and resource sustainability.

**72** The Commission's work has 'highlighted significant shortcomings' in the Member States in which they audited control of catch weighing, registration and traceability (Denmark, Ireland, Belgium and the Netherlands). These shortcomings led to overfishing and underreporting of catches.

**73** The Commission is taking remedial action. Between 2015 and 2020, the Commission opened 34 informal cases in its online 'EU Pilot' problem resolution platform to address identified weaknesses with Member States. It also drew up sixteen action plans with Member States<sup>36</sup> to address deficiencies in catch registration, sanctioning systems, risk-management processes, computerised data validation/automated cross-checking systems and traceability requirements.

**74** Between 2015 and 2021, the Commission initiated eleven infringement procedures (legal action) against Member States regarding failures to effectively implement the landing obligation, adequately control their external fleet or fisheries, apply an effective sanctioning system in case of serious infringements, or control catch registration and weighing systems.

### **EU-funded projects helped reinforce control system**

**75** The European maritime and fisheries fund provides support for monitoring, control and enforcement activities, with a total budget of €580 million for the 2014-2020 programme period.

**76** The latest data (end 2020) shows that Member States selected operations worth €440 million for control measures<sup>37</sup>. Measures eligible for funding included the

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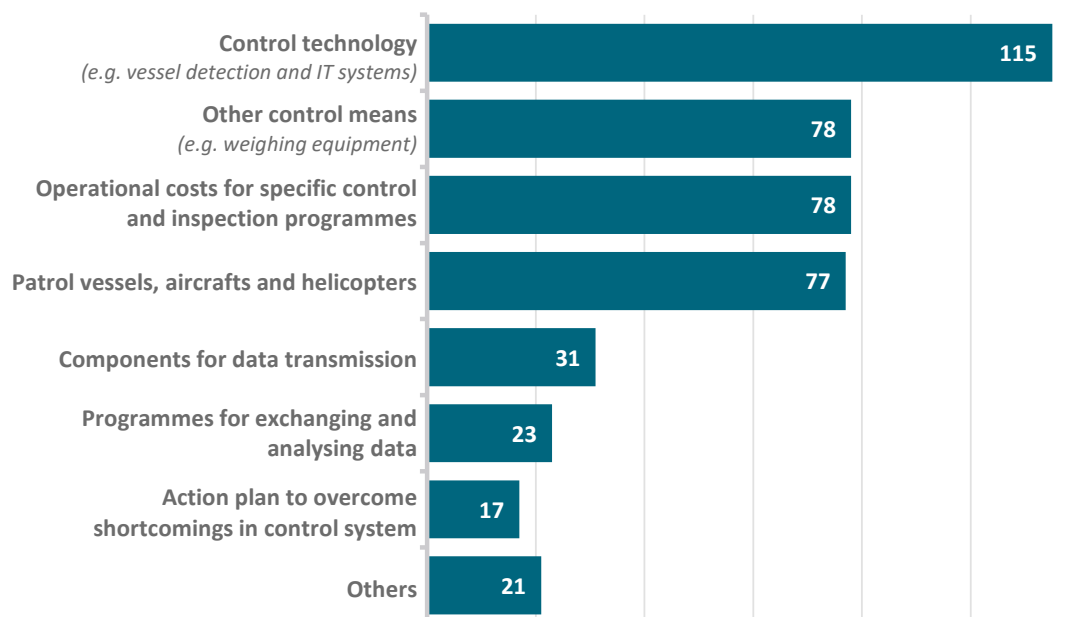
<sup>35</sup> [Report on the application of Council regulation \(EC\) No 1224/2009.](#)

<sup>36</sup> Belgium, Bulgaria, Cyprus, Germany, Estonia, Greece, Finland, Croatia, Italy, Lithuania, Malta, the Netherlands, Romania, Sweden (twice), Slovenia.

<sup>37</sup> [EMFF implementation report 2020.](#)

installation and development of control technology, the modernisation and purchase of patrol vessels and aircraft, operational costs and the development of innovative control techniques (see [Figure 10](#)).

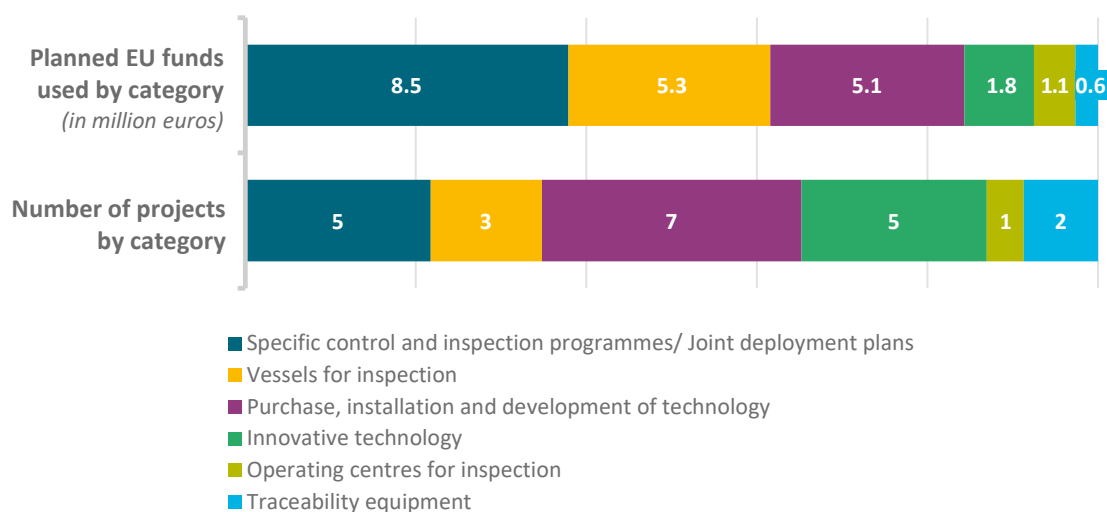
**Figure 10 – EU spending on control measures by category (in million euros)**



Source: ECA, based on [EMFF implementation report 2020](#).

**77** We selected a sample of 23 projects worth €27 million in total (with €22.4 million co-financed by the EU), allocated to control and enforcement in Denmark, Spain, France and Sweden. The projects selected covered IT development, patrol vessels, innovative technology and operational costs (see [Figure 11](#)). Of the 23 sampled projects, 20 were implemented by public bodies and three by private beneficiaries.

**Figure 11 – Selected projects by category**



Source: ECA.

**78** For each of these projects, we assessed whether the objectives met the needs identified by the managing authority in the national Operational Programmes for the European maritime and fisheries fund or the EU-level priorities for control and enforcement<sup>38</sup>. We performed a documentary check on each project, analysing application, selection procedures, implementation and costs. In each case, we found that all projects selected were in line with the national or EU priorities, and helped reinforce the Member States' control systems.

**79** Five projects in our sample, worth €8.5 million in total, covered some of the costs linked to the participation of control authorities in Joint Deployment Plans or specific control activities. EU funds financed elements such as vessel maintenance, salaries and fuel for patrols. Member State authorities we interviewed confirmed that EU funding was essential to support these operations. Across the EU, Joint Deployment Plans enabled the detection of 2 351 infringements in 2020, as explained in paragraph 66.

**80** Three projects, worth €5.31 million in total, concerned the acquisition or upgrading of patrol vessels. This included a new patrol vessel and the replacement of six engines in four boats for the Galician Coastguard Service, and the renovation of a patrol vessel in France for use in the Indian Ocean. We verified that the authorities had organised tendering procedures to minimise costs and that these vessels would be used primarily for fisheries control.

<sup>38</sup> Commission implementing decision 2014/464/EU.

**81** Seven projects, worth €5.1 million in total, concerned the ‘purchase, installation and development of technology’. This mainly consisted of IT investments for control authorities to help them better target and perform their checks. The projects we selected included the use of artificial intelligence models for risk-based control, the development of a website for reporting illegal fishing, and multiple IT systems aimed at analysing and sharing fisheries data. The control authorities we interviewed confirmed that these tools were useful for their operations.

**82** We selected five innovative projects, worth €1.83 million in total, aimed at finding cost-effective ways to improve control. *Figure 12* below presents four of these projects.

## Figure 12 – Innovative projects to combat illegal fishing



### The use of drones for fishery control

Drones can be useful for detecting fishing activities or illegal traps near coastlines, in lakes or inland waters. However, drones capable of long distance flight are rarely used for control at sea. While they have the potential to replace expensive manned aircraft, they have to be robust enough to fly in rough weather conditions. One of our selected projects concerned the testing of a specific drone for detecting illegal fishing in France.



### Satellite monitoring for vessel detection

Satellites are used by all control authorities to track the activity and position of all vessels equipped with a Vessel Monitoring System (VMS). In these cases, satellites are used for data transmission at sea. One of our selected projects explored an innovative way to use satellite surveillance in the vast French Southern and Antarctic Territories. The project used pictures taken by a satellite from the Copernicus programme and used artificial intelligence to detect fishing vessels operating illegally.



### Autonomous surface vehicle

One selected project was the design and testing in Spain of an autonomous surface vehicle powered by clean energy. Thanks to multiple sensors, this unmanned vessel can perform ocean research, while providing the coast guard with a discreet and autonomous surveillance system.



### Remote electronic monitoring

One selected project was the development and testing by Denmark of remote electronic monitoring to better control the landing obligation. Fourteen Member States are now testing systems combining the use of cameras and detector to be able to capture and analyse images of catches brought on board the vessels and ensure that bycatches are not discarded illegally.

Source: ECA.

**83** Other projects selected involved the acquisition of containers for storing seized equipment such as illegal gear, construction of operation centres for fisheries inspectors, and investments by private operators in traceability systems.

## Sanctions imposed by Member States vary and are not always dissuasive

**84** The preamble to the [illegal, unreported and unregulated fishing regulation](#) recognises that the consistently high number of serious infringements of fisheries policy rules in EU waters or by EU operators is largely due to insufficiently dissuasive Member State sanctions. It added that the wide variety of sanctions across Member States encouraged illegal operators to cherry-pick the maritime waters or territory of the most lenient Member States. To address this weakness, the regulation introduced provisions to reinforce and standardise sanctions across the EU.

**85** The EU rules on sanctions apply to all ‘serious infringements’. It is up to each Member State authority to determine whether a specific infringement should be deemed serious, taking account of criteria such as the damage caused, its value, the extent of the infringement and prior offences. Serious infringements concern illegal activities such as fishing without a licence or authorisation, failure to report catches, fishing in a closed area or with no quota allocation, and using illegal gear<sup>39</sup>. Non-compliance with the landing obligation may also be considered a serious infringement<sup>40</sup>.

**86** The EU rules require Member States to impose effective, proportionate and dissuasive sanctions for all serious infringements. One key principle is that the overall level of sanctions should effectively ‘deprive those responsible of the economic benefits derived from their serious infringements’. The value of the damage caused to fishing resources and the marine environment should also be considered.

**87** To promote a level playing field across the EU, the legislation introduced a penalty system for serious infringements. When a serious infringement is detected, the authorities must apply penalty points to the holder of the fishing licence and the master of the vessel. Above a specific threshold, defined in the regulation, the licence is suspended or withdrawn.

**88** In 2019, the Commission conducted a study on the sanction systems of all Member States for infringements of common fisheries policy rules<sup>41</sup>. It is based on

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<sup>39</sup> [illegal, unreported and unregulated fishing regulation](#).

<sup>40</sup> [Control regulation](#).

<sup>41</sup> [Study on the sanctioning systems of Member States for infringements to the rules of the common fisheries policy](#).



data provided by Member State authorities covering 2015 to 2019. The study highlighted numerous positive findings.

- The vast majority (92 %) of serious infringements detected led to an investigation or prosecution.
- Of all infringements investigated or prosecuted, 92 % led to sanctions.
- The time taken for enforcement was usually short, with sanctions for serious infringements applied within ten months of detection on average. Member States that predominantly use criminal rather than administrative proceedings recorded longer times.

**89** The study also highlighted numerous gaps in the application of sanctions by Member States, undermining the effectiveness of the control system and the level playing field. These are listed below:

- a significant difference in the percentage of infringements qualified as ‘serious’ due to differing national criteria. Such infringements are therefore sanctioned differently;
- considerable variation in fines foreseen in national legislations, with maximum amounts ranging from €1 624 (Romania) to €600 000 (Spain) for administrative sanctions, and from €10 224 (Bulgaria) to €16 000 000 (Estonia) for criminal sanctions. In practice, the average fine imposed for a similar infringement ranged from around €200 (Cyprus, Lithuania, and Estonia) to more than €7 000 (Spain). In some Member States whose fishing fleets comprise large vessels or operate outside EU waters (Greece, Lithuania, Latvia), maximum fines are very low in relation to activity level, raising doubts as to their proportionality and deterrent effect;
- some Member States (Cyprus, Lithuania, Romania) frequently issue warnings in lieu of a fine for non-serious infringements, while others (Denmark, Spain) do so even for serious infringements;
- considerable variation in use of accompanying sanctions (e.g. confiscation of fishery products/illegal gear, suspension of fishing licence), which were only applied frequently by some Member States (Belgium, Denmark, France, Italy, the Netherlands);

- o significant variation in application of the penalty points system, with some Member States (Greece, Romania, Croatia, Ireland) never or rarely applying points for serious infringements (contravening the [fisheries control regulation](#)).

**90** Based on our assessment of the results of this study and our own audit work; we conclude that there is no level playing field across the EU. Most seriously, in some Member States, sanctions are not proportionate to the economic benefit derived from the infringements, and are insufficient for deterrent effect. This is unfair to law-abiding operators and creates a risk of persistent non-compliance.

**91** In its 2018 proposal for the revision of the fisheries control system, the Commission proposed a number of changes to the existing legislation to better standardise sanctions for common fisheries policy infringements across Member States. These include more specific criteria for determining the gravity of infringements, the automatic qualification of certain infringements as serious, and the stipulation of standardised minimum and maximum sanctions for serious infringements.

## Conclusions and recommendations

**92** Illegal, unreported and unregulated fishing depletes fish stocks, posing one of the world's greatest threats to marine ecosystems, undermining efforts to manage fisheries sustainably and pushing some to the brink of collapse. Combating illegal fishing should offer EU consumers a guarantee that the products they consume are not derived from illegal, unreported and unregulated fishing. However, while necessary, ensuring the legality of a product is not sufficient to ensure that it is sustainably sourced.

**93** We examined EU spending and action aimed at preventing products of illegal, unreported and unregulated fishing from reaching EU citizens. We covered the control systems for preventing the import of illegal fishery products into the EU and Member States' control systems for checking national fleets and waters.

**94** Overall, we conclude that the control systems in place to combat illegal fishing are partially effective; although they mitigate the risk, their effectiveness is reduced by the uneven application of checks and sanctions by Member States.

**95** The EU adopted the illegal, unreported and unregulated fishing regulation in 2008, setting up the EU catch certification scheme. We found that the scheme improved traceability and reinforced the control of imports (paragraphs [28-29](#)). Compared to similar systems, the EU scheme is the most comprehensive in terms of scope, information required, and validation and control processes (paragraphs [30-34](#)).

**96** Member States' authorities should perform risk-based checks to ensure that all imports are accompanied by valid catch certificates, verifying the information on each certificate. We found that significant differences in the scope and quality of checks and verifications by Member States undermined the effectiveness of the system and led to a risk of operators exploiting the weakest link (paragraphs [35-45](#)).

**97** The EU catch certification scheme is still paper-based. There is no EU-wide database recording all catch certificates received by Member States. This reduces the efficiency and effectiveness of the control system and creates a risk of fraud. A digital EU-wide solution developed by the Commission became available in 2019, but Member States are not using it. The Commission proposal amending the fisheries control regulation intends to make CATCH mandatory in the EU (paragraphs [46-49](#)).

**98** When a flag state’s control system is deficient in key aspects, validated catch certificates cannot guarantee that products exported to the EU are not derived from illegal, unreported and unregulated fishing. The identification of ‘non-cooperating third countries’, commonly known as a “red card” under the “carding system”, is essential to prevent illegal products from entering the market. We found that the carding system had proven useful, triggering reform in most of the third countries concerned. While the carding system often impacts countries whose EU fish trade is minimal, these countries often act as ‘flags of convenience’ and consequently create a risk of illegal fishing (paragraphs [50-63](#)).

### **Recommendation 1 – Monitor that Member States reinforce their control systems for preventing the import of illegal fishery products, and take necessary action**

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To enhance control of imported products, the Commission should work with the Member States to:

- (a) pursue the digitalisation of the catch certification scheme and develop automated checks and risk alerts to support control activities;
- (b) work with Member States towards the uniform use of risk identification criteria and monitor whether checks and verifications by Member States focus on the risks identified;
- (c) monitor that the scope and quality of checks applied by Member States are sufficient to address the risks, and take necessary action to remedy any shortcomings.

**Target implementation date: 2026**

**99** Member States must control fishing activities in their waters and those carried out elsewhere by fishing vessels flying their flag. Data shows that national checks often detected instances of illegal fishing, although three Member States and the UK detected around 75 % of all infringements reported. Misreporting of catches is the most common infringement by the EU fleet, followed by fishing in closed areas or with no quota allocation, and using illegal gear. There is ample evidence that enforcing the landing obligation is a challenge and that illegal discards at sea persist (paragraphs [64-69](#)).

**100** The Commission's work has identified significant shortcomings in some Member States' control of catches weighing, registration, and traceability. These shortcomings have led to overfishing and underreporting of catches and the Commission is taking steps to address them (paragraphs [70-74](#)).

**101** The European maritime and fisheries fund has provided support for monitoring, control and enforcement, with a total budget of €580 million for the 2014-2020 programme period. We selected a sample of 23 projects dedicated to control and enforcement in four Member States. We found that these projects were in line with defined national or EU priorities and helped reinforce the control system (paragraphs [75-83](#)).

**102** The EU framework requires Member States to impose effective, proportionate and dissuasive sanctions for all serious infringements. One key principle is that the overall level of sanctions must effectively 'deprive those responsible of the economic benefits derived from their serious infringements' (paragraphs [84-87](#)).

**103** The vast majority of serious infringements detected led to an investigation or prosecution resulting in timely sanctions. However, the level of sanctions varied considerably across Member States for similar infringements. Comparison of the application of sanctions in national systems revealed the absence of a level playing field across the EU. Most seriously, in some Member States, sanctions are not proportionate to the economic benefit derived from the infringements, and are not dissuasive (paragraphs [88-91](#)).

## **Recommendation 2 – Ensure that Member States apply dissuasive sanctions against illegal fishing**

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The Commission should work on the uniform and effective application of a dissuasive sanctioning system for illegal fishing across Member States by:

- (a) checking that Member States apply sanctions for serious infringements;
- (b) checking that the value of the sanction applied by Member States is no less than the economic benefit derived from the infringement and is dissuasive enough to prevent repeat infringements;
- (c) checking that the application of the penalty point system across Member States is harmonised;

**Target implementation date: 2024**

- (d) take necessary action to remedy any shortcomings.

**Target implementation date: 2026**

This Report was adopted by Chamber I, headed by Ms Joëlle Elvinger, Member of the Court of Auditors, in Luxembourg at its meeting of 14 July 2022.

*For the Court of Auditors*

Klaus-Heiner Lehne  
*President*

# Annexes

## Annex I – International instruments to combat illegal, unreported and unregulated fishing



## Annex II – Benchmarking of EU catch certification scheme with similar systems in USA and Japan

| Coverage   | Information requirements   | Validation and control system  |
|--|--|--|
| <p><b>The EU scheme has the most comprehensive coverage: all fishery products must be traceable and certified.</b></p> <ul style="list-style-type: none"> <li>The EU scheme covers all processed and unprocessed wild-caught marine fish imported from third countries into the EU market (with some exemptions for products of minor importance in the fight against illegal fishing), as well as from EU countries if re-imported after processing outside the EU.</li> <li>The US seafood monitoring programme (SIMP) covers 13 types of seafood identified as being most vulnerable to illegal, unreported and unregulated fishing and seafood fraud. This represents nearly half of all US seafood imports<sup>42</sup>.</li> </ul> | <p><b>The EU and US schemes have broad information requirements allowing detailed traceability.</b></p> <ul style="list-style-type: none"> <li>All schemes require the collection of basic product information: vessel, flag, species and quantities caught.</li> <li>Only the EU and US schemes require information on processed weight.</li> <li>The CCAMLR scheme is the only scheme not to require information on precise catch area (accepting 'high seas' or coastal state exclusive economic zone), fishing gear and method.</li> <li>The ICCAT and CCSBT schemes do not require information on the fishing licence, authorisation to fish, vessel identifier number or port of landing.</li> </ul> | <p><b>The EU scheme has the most comprehensive validation and control system (certification by flag state and checks by national authorities at EU destination).</b></p> <ul style="list-style-type: none"> <li>In the USA, importers are responsible for ensuring the legality of the products. There is no role for the flag State to validate the information provided by the operators. Fisheries control authorities conduct both random and targeted audits of seafood products covered by the programme<sup>47</sup>.</li> <li>In the EU, each consignment must be accompanied by a certificate validated by the flag state. In addition, Member State authorities must ensure that imports of fishery products are accompanied by a</li> </ul> |

<sup>42</sup> SIMP Report to Congress Efforts to Prevent Seafood Harvested through IUU fishing.

<sup>47</sup> Compliance Guide for the Seafood Import Monitoring Program.



| Coverage   | Information requirements  | Validation and control system  |
|--|---|--|
| <ul style="list-style-type: none"> <li>Currently, Japan monitors the four species covered by regional schemes: southern bluefin tuna, Atlantic bluefin tuna, Antarctic toothfish and Patagonian toothfish<sup>43</sup>. A new law will introduce a catch documentation scheme for other species considered as vulnerable seafood imports<sup>44</sup>. Initially it will be applicable to four species with the possibility of extending the scope.</li> </ul> | <ul style="list-style-type: none"> <li>The EU scheme is mainly paper-based. The US scheme requires importers to report key data in a national system, keeping paper or electronic records. While ICCAT and CCAMLR use digital systems<sup>45</sup>, CCSBT is not yet fully digitalised<sup>46</sup>.</li> </ul> | <p>valid catch certificate, and perform risk-based checks and verifications.</p> <ul style="list-style-type: none"> <li>Each Regional Management Organisation has its own control and validation rules. Both CCAMLR<sup>48</sup> and ICCAT<sup>49</sup> require flag states to certify catches. Members must ensure that their authorities examine the documentation of each shipment. CCSBT<sup>50</sup>, members must carry out audits, including inspections of vessels, landings and, where possible, markets to validate the information in the documentation.</li> </ul> |

<sup>43</sup> A comparative study of key data elements in import control schemes aimed at tackling IUU fishing in the top three seafood markets.

<sup>44</sup> Japan to Require Catch Documents for Imports of Vulnerable Marine Species.

<sup>45</sup> Recommendation by ICCAT on an electronic Bluefin Tuna Catch Documentation Programme (eBCD).

<sup>46</sup> Resolution on the implementation of a CCSBT Catch Documentation Scheme.

<sup>48</sup> Conservation Measure 10-05 (2018), Catch Documentation Scheme for *Dissostichus* spp.

<sup>49</sup> Recommendation 18-13 by ICCAT on an ICCAT Bluefin Tuna Catch Documentation program.

<sup>50</sup> Resolution on the Implementation of a CCSBT Catch Documentation Scheme.

# Abbreviations

**CCAMLR:** Commission for the Conservation of Antarctic Marine Living Resources

**CCSBT:** Commission for the Conservation of Southern Bluefin Tuna

**EFCA:** European Fisheries Control Agency

**EMFF:** European maritime fisheries fund

**FAO:** Food and Agriculture Organization

**ICCAT:** International Commission for the Conservation of Atlantic Tunas

**IUU:** Illegal, unreported and unregulated

## Glossary

**Carding system:** The EU's method of identifying non-EU countries whose measures for deterring illegal fishing are inadequate, and penalising them with a formal warning ('yellow card') or an import ban ('red card').

**Catch certification scheme:** Requirement that all fisheries exports to the EU carry certificates, validated by the fishing vessel's flag state, to prove that they come from legal catches.

**Common fisheries policy:** The EU's framework for managing fish and fishing, designed to ensure sustainable fish stocks and a stable income for the fishing community.

**European maritime and fisheries fund:** EU fund that supports fishers in the transition to sustainable fishing, and coastal communities in diversifying their economies.

**Exclusive economic zone:** Area of sea, immediately beyond the territorial waters of a coastal country, in which that country has certain rights and duties under the UN Convention on the Law of the Sea.

**Flag state:** Country in which a sea-going vessel is registered.

**Joint deployment plan:** Control and inspection arrangements for priority fishing areas using resources pooled by Member States.

**Landing obligation:** Requirement for fishing vessels to bring ashore all catches of certain species, and to report them and deduct them from any applicable quotas.

**Regional fisheries management organisation:** Intergovernmental organisation with the authority to establish fisheries conservation and management measures in international waters.

## Replies of the Commission

<https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=61941>

## Timeline

<https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=61941>

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The ECA's special reports set out the results of its audits of EU policies and programmes, or of management-related topics from specific budgetary areas. The ECA selects and designs these audit tasks for maximum impact, considering the risks to performance or compliance, the level of income or spending involved, forthcoming developments and political and public interest.

This performance audit was carried out by Audit Chamber I - Sustainable use of natural resources, headed by ECA Member Joëlle Elvinger. The audit was led by ECA Member Eva Lindström, supported by Katharina Bryan, Head of Private Office, and Johan Stalhammar, Private Office Attaché; Paul Stafford, Principal Manager; Frédéric Soblet, Head of Task; Paulo Faria, deputy Head of Task and Kartarzyna Radecka-Moroz, Radostina Simeonova and Anna Zalega, Auditors. Marika Meisenzahl provided graphical support.



*From left to right: Johan Stalhammar, Frédéric Soblet, Eva Lindström, Katharina Bryan, Paul Stafford.*

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Illegal, unreported and unregulated fishing is one of the greatest threats to marine ecosystems, undermining efforts to manage fisheries sustainably. We examined the EU framework, action and spending aimed at preventing illegal fishery products from ending up on EU citizens' plates. Overall, we conclude that the control systems in place to combat illegal fishing are partially effective; although they mitigate the risk, their effectiveness is reduced by the uneven application of checks and sanctions by Member States. We recommend that the Commission monitor that Member States reinforce their control systems for preventing the import of illegal fishery products, and ensure that Member States apply dissuasive sanctions against illegal fishing.

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