

Spain - A progress report on a decade of combating IUU fishing

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Executive summary

Spain is often regarded as one of the Member States that has been the most active when it comes to the implementation of the EU's flagship regulation on Illegal, Unreported and Unregulated (IUU) fishing, the IUU Regulation. Indeed, high profile cases over the past years, including Operations Sparrow I and II, Banderas and Tarantelo, alongside the good systems the country has in place to combat IUU fishing, have allowed Spain to gain this reputation. But is this still valid today? Has there been progress in the implementation of the IUU Regulation? Are there further improvements that need to be made for Spain to continue to be considered a leader in the enforcement of the IUU Regulation?

In order to answer these questions, it was necessary to select and track a range of indicators, using information available in the biennial reports presented by Spain to the Commission as well as information collected in interviews. The table below summarises the main criteria we used to reach our conclusion.

Selected indicator for tracking of progress	Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2018/2019
Modification of national law or any administrative guidelines for the application of the IUU Regulation	yes	yes	no	no
Number of officials involved in controls under the IUU Regulation	94	116	126	165
Percentage of verifications of catch certificates and processing statements	100%	100%	100%	100%
Number of inspections of third-country fishing vessels in Member States' ports	701	914	300	294
Number of imports that have been refused	42	58	24	13
Use of a risk assessment approach for verification of catch certificates	yes	yes	yes	yes
Number of requests for verifications sent to third-country authorities	1031	1113	771	1120
Refusal of catch certificate validations	yes	yes	yes (504)	yes (785)
Use of an IT tool to monitor the catch certificates and processing statements accompanying imports	yes	yes	yes	yes
Number of infringements detected	102	99	58	37
Number of serious infringements detected	3	3	11	11

We can conclude that Spain has maintained steady progress in most areas of the implementation of the IUU Regulation, but there are nevertheless some shortcomings in maintaining the necessary levels of controls. As a result, we make a number of recommendations for Spain to continue to be considered a leader in combating IUU.

Spain must continue to be diligent in maintaining and improving its system in those areas in which it has shown a high level of performance. This includes systematically checking all catch certificates (CC) for third-country fishery products, an annual increase in the number of officials involved in the fight against IUU fishing, developing and implementing a risk assessment approach for verification of CC, refusing the validation of CC and of imports when necessary and sending the required requests for import verifications.

Spain should provide the necessary means to improve some areas of implementation in which it has shown a lower level of performance such as prosecuting IUU fishing activities as well as ensuring the effectiveness of its control system by refusing all imports where necessary.

Spain should be more proactive in encouraging Member States to ensure that the IUU Regulation is implemented in a harmonised way to avoid trade flows towards less stringent markets. This should mean stepping up efforts to use CATCH, the electronic EU-wide database for CC and processing statement (PS) information, and calling for the whole bloc to use it as soon possible, after the legal basis exists.

In addition, the Commission must be more transparent by making the biennial reports presented by Member States easily accessible and ensuring that the data collected is correct. The ensuing audits should also be made public. The Commission should also give consistent feedback on the biennial reports submitted by Member States as there is often confusion on how these reports must be captured. Both of these steps would also allow for a better interpretation of the data provided and ensure consistency in the implementation of the IUU Regulation between Members States.

1 Introduction: Spain as a leader in the fight against illegal, unreported and unregulated fishing

Illegal, unreported or unregulated (IUU) fishing is one of the greatest threats to the sustainability of living aquatic resources and marine biodiversity but also to fishers and coastal communities.^{1,2} Council Regulation (EC) No. 1005/2008 (the IUU Regulation) entered into force 1 January 2010 and lays down the necessary measures for Member States to prevent or hinder the entry of products from IUU fishing into the European Union (EU). Unfortunately, there is evidence that Member States are not adequately enforcing the IUU Regulation, nor are they strictly applying their import controls.³ To achieve long-term success in the fight against IUU fishing at both national and European level, all products imported into the EU should be subject to standardised controls in all Member States.

To date and for the past decade, Spain has gained international praise for its efforts to tackle IUU fishing. When compared with other Members States for example, it is considered to be the most effective in the implementation of the IUU Regulation.⁴ Examples of performance include:

- strict controls of imported products;
- verification of all catch certificates (CC) by the General Secretariat of Fisheries (GSF);⁵
- serious sanctions for Spanish citizens and organisations involved in illegal fishing activities;⁶
- increased staffing and human resources to tackle IUU fishing;
- prior checks for landings or transshipment authorisations in higher-risk cases; and
- a single-window system to coordinate checks of fisheries imports across different government departments.

As a result, Member States that are being proactive in the fight against IUU fishing, like Spain, should become de facto true drivers of change and “leaders by example”, by encouraging other Member States

¹ See: https://ec.europa.eu/fisheries/cfp/illegal_fishing_en

² See: European Commission Directorate-General for Maritime Affairs and Fisheries Policy Development and Co-Ordination Fisheries Control Policy. Ref: Mare A4/PS D(2009) A/12880. Fisheries control policy. “Handbook on the practical application of Council Regulation (EC) No. 1005/2008 of 29 September 2008 establishing an EU system to prevent, deter and eliminate illegal, unreported and unregulated fishing. (The IUU Regulation)”. P.5-6- At: https://www.jfa.maff.go.jp/j/kakou/eu/q_a/pdf/handbook.pdf

³ See: “The EU IUU Regulation. Analysis: Implementation of EU seafood import”. Environmental Justice Foundation, Oceana, The Pew Charitable Trusts and WWF (2017). At: http://www.iuuwatch.eu/wp-content/uploads/2017/03/IUU_Import-controls_report_ENG.pdf

⁴ See “Improving Performance in the Fight Against Illegal, Unreported and Unregulated (IUU) Fishing. Spain – Leading Implementation of the EU’s Regulation to Combat Illegal Fishing”. Environmental Justice Foundation, Oceana, The Pew Charitable Trusts and WWF (2017). At http://www.iuuwatch.eu/wp-content/uploads/2015/07/IUU_SPAIN_Brief_ENG.FINAL_June_HIGH.pdf

⁵ The General Secretariat of Fisheries (“Secretaría General de Pesca”) within the Ministry of Agriculture, Fisheries and Food is the only Spanish authority designated to perform functions in connection with the IUU Regulation. It is competent for the control and implementation of fisheries laws and for developing national rules on the management of the fishing sector. See: Royal Decree 430/2020, of 3 March, which develops the basic organic structure of the Ministry of Agriculture, Fisheries and Food. On: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-3228

⁶ Spain has examples of high profile successful prosecutions. In relation to the prosecution of IUU fishing in Antarctic waters, operations Sparrow I and Sparrow II resulted in combined penalties of more than 25 million euros on Spanish nationals. See: “The Spanish legal process for prosecuting illegal fishing: A story of success? ClientEarth (2019). At: <https://www.documents.clientearth.org/library/download-info/the-spanish-legal-process-for-prosecuting-illegal-fishing-a-story-of-success/>

in their journey to more effective implementation of the IUU Regulation. It is crucial that those who are considered leaders remain as such, in order to continue setting an example of good practices.

This briefing will analyse the progress made by Spain in its implementation of the IUU Regulation since it came into force ten years ago. We will answer the following two questions: Has there been progress in Spain's implementation of the IUU Regulation over the past decade? And what are the improvements that can be made by Spain in order to continue being a leader in the fight against IUU fishing?

2 Verifying progress: Member States' biennial reports on the implementation of the IUU Regulation

EU Member States need to submit biennial reports to the European Commission (EC) every two years, no later than the 30th April of every other year, as part of their obligation to demonstrate a diligent implementation of the IUU Regulation and in line with Article 55 of the Regulation. Since the entry into force of this Regulation, Member States should have submitted five biennial reports for the following periods: 2010/11, 2012/13, 2014/15, 2016/2017, and 2018/2019. By analysing and comparing these biennial reports, we can track the progress made over the years by each Member State in its implementation of the IUU Regulation.

In these biennial reports, Member States answer a two-page questionnaire sent by the Commission, divided into thirteen sections that cover different dimensions of the IUU Regulation. It contains questions related to:

- the national legal framework;
- the internal organisation of the national administration;
- the volume of direct landings of third-country fishing vessels;
- the number and nature of port inspections;
- the nature and use of the catch certification scheme;
- details on the verification requests made for CC associated with imports as well as verifications made directly to flag States;
- the number of imported consignments refused;
- the level of cooperation with third countries; and
- sanctions and infringements against the Member State's own nationals.

For this report, we have focused on collecting information from Spain's last four biennial reports.⁷ This information has then been analysed using a matrix of criteria listed in the box below, as a means of comparing trends over the past ten years. We note that although Spain submitted the first four of its biennial reports on time, the most recent report (for 2018/19) was at least four months late.

⁷ This is due to the format of the first biennial report in 2010/2011, which was an examination of all the data related to fishery imports rather than answers to a structured questionnaire.

Key criteria:

1. Evolution of the national legal framework and administrative guidelines for the application of the IUU Regulation
2. Number of officials involved in controls under the IUU Regulation
3. Number of catch certificates and processing statements verified
4. Inspections of third-country fishing vessels in Member States' ports
5. Refusal of fish imports by Spain
6. The use of a risk assessment approach for verification of fish imports
7. Requests for verifications sent by Spain to third-country authorities
8. Refusals of the validation of catch certificates in the case of exports
9. The use of an IT tool to monitor the catch certificates and processing statements accompanying imports and exports
10. Number of infringements recorded by Spain

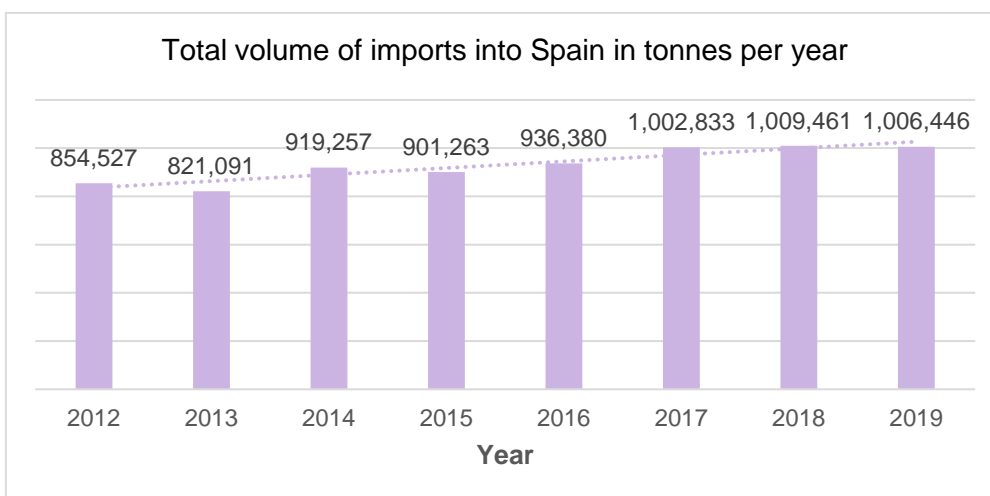
Due to the potential risks inherent in using a single source of information and in self-reporting, we have tried wherever possible and necessary to cross check this information with interviews conducted with Spanish authorities and by analysing other related documents and studies.

3 The starting point: volume of imports and number of catch certificates

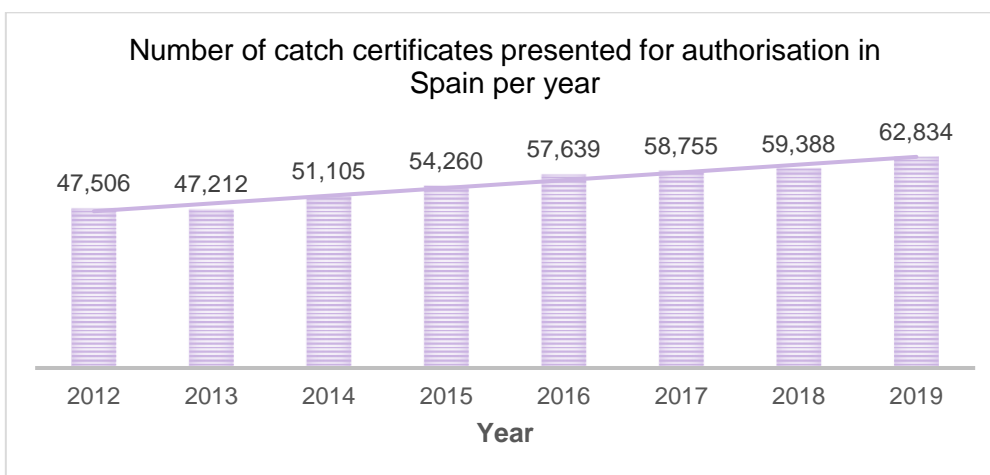
In order to determine whether the authorities are implementing the IUU Regulation adequately, it is important to pay attention to the relationship between changes in the volume of imports and the intensity of enforcement activities focused on monitoring imported fishery products. For example, a greater number of fishing inspectors should theoretically not be required if the volume of imports has significantly decreased. Conversely, an increase in the volume of imports would require an increase in the resources authorities deploy to monitor this increased arrival of fishery products.

The figure below shows that there has been an 18% increase in the volume of imports of fishery products between 2012 and 2019. Over the same period, the number of catch certificates received by Spain increased by about 32%, from 47,506 in 2012 to 62,634 in 2019. This is a logical consequence of the increase in the volume of imported fishery products.

These two graphs include a comparison of the **total annual volume of imports in tonnes to Spain** and the **total number of catch certificates presented for authorisation from non-EU countries to Spain**.



Graphic 1: Annual volume of imports to Spain between 2012 and 2019



Graphic 2: Number of CC presented for authorisation in Spain between 2012 and 2019

As a result of these trends, we can expect an increase in the resources dedicated by the Spanish State to monitor imports of fishery products.

4 Evolution of the national legal framework and administrative guidelines for the application of the IUU Regulation

EU regulations are directly applicable, do not need to be incorporated by EU countries into their national legislation and become binding automatically in all Member States on the date they come into force. However, it is crucial that Member States develop an adequate national framework that will ensure the proper implementation, both at the regional and national levels, of the provisions of the IUU Regulation.

The table below answers the question of whether Spain modified national law or any administrative guidelines for the application of the IUU Regulation during any two-year period.

Table 1: Modification of national law section or administrative guidelines for the application of the IUU Regulation

Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2018/2019
Yes	Yes	No	No
<p>The Government approved the proposal amending the Fisheries Law 3/2001.⁸ <i>To adapt the national legislation to the CFP and the IUU Regulation.</i>⁹</p> <p>Adoption of Ministerial Decree ARM/2077/20.¹⁰ <i>To establish control procedures at all fishing stages: access to port, landings, exports, transhipment etc,</i></p> <p>Adoption of Royal Decree 114/2013. <i>To implement of the penalty point system.</i></p>	<p>Adoption of Law 33/2014, amending the Fisheries Law 3/2001.¹¹</p> <p>Adoption of Royal Decree 182/2015.¹² <i>To establish the administrative proceedings for the system of sanctions for fishing in external waters.</i></p>	<p>No new laws or guidelines have been adopted.</p> <p>In terms of implementation, the existing regulations have been applied.</p>	<p>No new laws or guidelines have been adopted</p> <p>In terms of implementation, the existing regulations have been applied.</p> <p>In terms of compliance, in 2018 the IUU implementation system underwent an audit in accordance with the UNE-EN ISO 9001:2015 Quality Management Systems standard.¹³</p>

⁸ The Council of Ministers on 11 April submitted to the Spanish Parliament amendments to the Fisheries Law 3/2001. The main objective was to adapt national legislation to the new Common Fisheries Policy and to the requirements of the IUU Regulation. More specifically, the goal was to strengthen the regulatory framework for infringements and sanctions.

⁹ The bill defined the scope of application of the system of infringements and penalties in accordance with the provisions of Article 41 of Regulation 1005/2008. It also extends liability for the Commission of infringements to those individuals or legal entities that operate through intermediary companies under their corporate control. It also strengthens the capacities of fisheries inspectors and includes new types of serious and very serious infringements specifically related to IUU fishing, such as the enrolment of Spanish nationals in third-country vessels or any participation or link to stateless vessels or vessels included in IUU lists. Likewise, the bill raised the maximum fine for very serious infringements to 600,000 Euros (previously 300,000 Euros).

¹⁰ Ministerial Order ARM/2077/2010, of 27 July, for the control of access to port services of fishing vessels from third countries, transit operations, transhipment, import and export of fishery products, to prevent, deter and eliminate IUU fishing. At: <https://www.boe.es/buscar/doc.php?id=BOE-A-2010-12273>

¹¹ In December 2014, Spain adopted an amendment to the Fisheries Law (Law 33/2014 of 26 December amending Law 3/2001 of 26 March on Fisheries). This new law entered into force on 16 January 2015. The main objectives of the new law were: 1) to adapt national legislation to the new Common Fisheries Policy and to the requirements of the Regulations on control and the fight against illegal, unreported and unregulated (IUU) fishing; 2) to increase the maximum amount of the fines (from 300,000 Euros to 600,000 Euros) and to increase the margin of manoeuvre in the range of sanctions that can be imposed; and 3) speeding up the procedure (inter alia, by introducing, under certain circumstances, the possibility of obtaining a reduction of the fine, thus accelerating the enforcement of the penalty). At: <https://boe.es/buscar/pdf/2001/BOE-A-2001-6008-consolidado.pdf>

¹² Spain also adopted new implementing legislation in March 2015 (Royal Decree 182/2015 of 13 March, approving the procedural regulations for the system of sanctions for sea fishing in external waters). This legislation sets out the administrative procedure to be followed when alleged infringements are detected. At: <https://www.boe.es/buscar/doc.php?id=BOE-A-2015-2715>

¹³ For an explanation on the meaning of ISO terms and assessment and on ISO 9001:2015 Quality management systems, requirements, see: <https://www.iso.org/obp/ui/fr/#iso:std:iso:9001:ed-5:v1:en>

The table above shows that in the first years following the entry into force of the IUU Regulation, Spain made a number of changes in its national legal framework to ensure that the IUU Regulation had sufficient grounding into national law, and focused on making sure it was adequately implemented during the following years.

In relation to the existing legal regime related to IUU fishing, the most important aspect is not so much the need for new norms, but rather the strict implementation of the robust system that the IUU regulation provides. Therefore, although it is true that certain administrative acts could have been issued to remove existing legal loopholes,¹⁴ the focus moved towards making sure that the law was correctly implemented. This included strengthening controls, providing more personnel to the GSF and imposing penalties and sanctions for the involvement of Spanish nationals in IUU fishing activities. This is what we will focus on in the remainder of our analysis.

5 Number of officials involved in controls under the IUU Regulation

Data on the number of officials involved in control activities under the IUU Regulation is essential for assessing a Member State’s ability to maintain high standards of enforcement. Indeed, in order to ensure an adequate level of control, it is essential that Member States provide the competent bodies with enough human and material resources. Increased resources allow control activities to be carried out on vessels landing their catch or containers of fishery products, whenever it is needed and within the scope of their competence under the IUU Regulation.

So, in order to achieve high standards and to meet the increased need associated with increasing imports over the past decade, Spain should increase the number of officials involved in the fight against IUU fishing.

The table below summarises the amount of resources available for inspections and controls under the IUU Regulation.

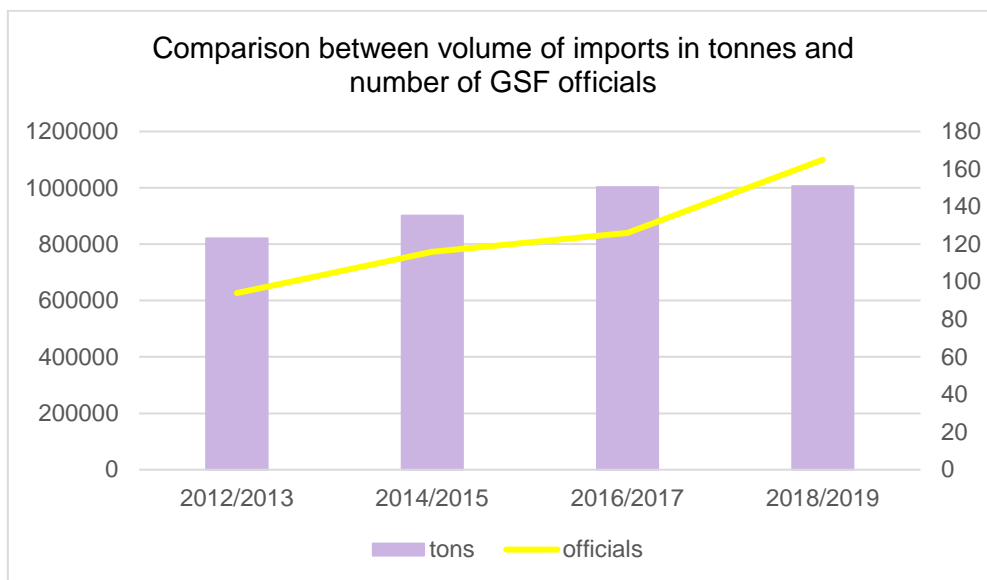
Table 2: Number of persons involved in controls under the IUU Regulation

Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2018/2019
94	116	126	165

¹⁴ For example between 2014 and 2017 some legal loopholes were identified by the GSF that should have been solved such as: the re-export of fishery products imported into the EU on the basis of a processing statement; fishery products, processed in the EU, exported to a third country where they are reprocessed and imported back into the EU; or fishery products that arrive in the EU divided into lots and intended to be imported into several Member States with the same CC.

<ul style="list-style-type: none"> • General Sub-director for Control and Inspection (1) • Head of Unit (1) • Authorisation Unit (19) • Intelligence Unit (5) • Fishing Inspectors (53) • Legal Affairs (15) 	<ul style="list-style-type: none"> • General Sub-director for Control and Inspection (1) • Head of Unit (1) • Authorisation Unit (24) • Intelligence Unit (5) • Fishing Inspectors (70) • Legal Affairs (15) 	<ul style="list-style-type: none"> • General Sub-director for Control and Inspection (1) • Assistant to the General Sub-director for Control and Inspection (1) • Head of Unit (1) • Authorisation Unit (32) • Intelligence Unit (6) • Fishing Inspectors (70) • Legal Affairs (15) 	<ul style="list-style-type: none"> • General Sub-director for Control and Inspection (1) • Assistant to the General Sub-director for Control and Inspection (1) • Head of Unit (1) • Authorisation Unit (9) • Intelligence Unit (6) • Fishing Inspectors (132) • Legal Affairs (15)
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The table above shows that there has been a 75% increase over the past decade in the number of officials involved in controlling imports of fishery products under the IUU Regulation.



Indeed, the graph above shows the number of GSF staff rising faster than the increase in the volume of imports, especially in the period 2018/2019. The volume of imports per GSF staff member per year decreased from 8,735 to 6,097 tonnes over this period. This means each GSF staff member has a lower volume of imported fish to check, indicating an increase in scrutiny on imported products.

It is also important to note that the public budget allocations for programs to monitor and combat illegal fishing have generally increased since the entry into force of the IUU Regulation, as seen in the Spanish general state budgets (GSB). In 2010, there was a high initial investment where the government needed to invest in equipment. This amounted to about of EUR 25.6 million. Over the next decade, this budget has generally been increasing from EUR 15.5 million in 2014 to EUR 17.4 million in 2018. A spend of about EUR 17.2 million is planned for 2021.

6 Number of catch certificates and processing statements verified

The implementation of a CC control scheme (including CC and processing statements – PS) is one of the cornerstones of the IUU Regulation. As a reminder, CC are required as a precondition for the import of fishery products into the EU. CC, which contain the information demonstrating the legality of the products, should be validated by the flag State of the fishing vessel that caught the fish, which, in turn, should follow international rules on conservation and management of fisheries resources. Based on this, Member States that import fishery products have to verify the validity of the CC that accompany imports. They are entitled to refuse the importation when and if the CC does not meet a range of conditions listed in the IUU Regulation.¹⁵ Ideally, Member States should verify 100% of CC and PS that come into their country.

The table below looks at the percentage of CC and PS that have been verified by Spain.

Table 3: Number of catch certificates and processing statements verified

Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2018/2019
100%	100%	100%	100%
<p>The GSF has monitored and verified 100% of CC and PS presented by importers for authorisation since the implementation of the IT system to control fish imports in 2010, called the Integrated System for the Management and Control of Illegal Fishing (SICGPI).</p> <p><u>The GSF checks the following information on CC:</u>¹⁶</p> <ul style="list-style-type: none"> • Model of the certificate submitted by the third country: if it matches the model used by the concerned third country. • Catching vessel: if it is included in the EU IUU vessel list, if there is any alert of mutual assistance, for example. • Fishery products: if the product or capture zone area is subject to special control measures, if the flag country of the vessel is a member of a Regional Fisheries Management Organisation (RFMO), for example. • Declaration of transshipment at sea: for example, if the date of transshipment is after the date of catch, if the area where the transshipment takes place belongs to the EEZ of a coastal country other than the flag country. • Exporter's details: for example, if the exporter is located in the country issuing the CC, if the date of export is later than the date of catch and prior to the date of import. • Validation section: for example if it is signed by the competent authority, if the validation date is after the date of catch. • Transport information: if the exporting country is the same as the flag country or the country declared by the importer, if it is signed by the exporter, for example. 			

¹⁵ Recital 15 to 19 of the IUU Regulation.

¹⁶ Spain. Biennial reporting on the application of the IUU Regulation. Reporting period 2018-2019. Section 6.1.

- Importer's declaration: if it is duly completed and signed and indicates the CN¹⁷ code.
- Transport movements: for example, if they come through a container.

The GSF checks the following information on PS:¹⁸

- If the country validating the CC is on the list of countries notified to the Commission.
- If the CC numbers, vessel names, date of validation and description of catch and weight correspond to those provided on the CC.
- If the products (species, CN code and quantities) correspond to those for which the importer is applying.
- If the model of the PS corresponds to Annex IV of the IUU Regulation.

At the early stages of the implementation of the IUU Regulation, Spain was committed to controlling and checking all CC. This is demonstrated by the introduction of a comprehensive IT system in 2010, to which they made many improvements over the past decade. In general, this has improved the processing of CC and made it possible to systemise it.

7 Inspections of third-country vessels in Member States' ports

Physically inspecting fishing vessels is a cornerstone strategy for properly addressing IUU fishing and it is vital that Member States establish a system that allows for regular inspections on board fishing vessels. In addition, all fishing vessels that are suspected of having carried out IUU fishing are subject to systematic and specific inspection requirements by Member States.¹⁹

According to the IUU Regulation, Member States must, in their designated ports, inspect at least 5 % of landing and transshipment operations carried out by third-country fishing vessels each year.²⁰ It also establishes that the following fishing vessels shall be inspected in all cases:

- vessels sighted at sea allegedly involved in illegal fishing activities;²¹
- vessels reported by notifications made under the EU alert system;
- vessels identified by the Commission as engaged in IUU fishing; and
- vessels appearing in the IUU vessel list of an RFMO.

Table 4 below answers the question of how many fishing vessels from third countries have been inspected during each period.

¹⁷ The Combined Nomenclature (CN) is the EU's eight-digit coding system, comprising the HS codes with further EU subdivisions. It serves both the EU's common customs tariff and provides statistics for trade inside the EU and between the EU and the rest of the world.

¹⁸ Spain. Biennial reporting on the application of the IUU Regulation. Reporting period 2018-2019. Section 6.1.

¹⁹ Recital 25 of the IUU Regulation.

²⁰ Article 9 of the IUU Regulation.

²¹ Article 48 of the IUU Regulation.

Table 4: Number of fishing vessels from third countries inspected

Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2018/2019
701	914	263	294
<ul style="list-style-type: none"> Fishing inspectors from SGP physically inspected 341 vessels in 2014 and 360 in 2015.²² Inspections were carried out on the basis of a risk assessment.²³ Spain carried out inspections on more than 60% of landing and transshipment operations by third country fishing vessels each year.²⁴ 	<ul style="list-style-type: none"> Fishing inspectors from SGP physically inspected 396 vessels in 2014 and 518 in 2015. Inspections were carried out on the basis of a risk assessment. Reasons for inspection were: species subject to management plans or regulated by an RFMO; vessels receiving transshipments at sea; vessels operating in West Africa; vessels from which information has been obtained on alleged irregularities from alerts, mutual assistance messages and non-cooperating countries. 100% of the landings were inspected. 	<ul style="list-style-type: none"> Fishing inspectors from SGP physically inspected 154 vessels in 2016 and 109 in 2017. Inspections were carried out on the basis of a risk assessment. Spain carried out inspections in its designated ports of almost 90% of landing operations by third-country fishing vessels each year. 	<ul style="list-style-type: none"> Fishing inspectors from SGP physically inspected 154 vessels in 2018 and 140 in 2019. Spain carried out inspections in its designated ports of more than 90% of landing operations by third-country fishing vessels each year.

On first sight, this table shows that there has been a clear decrease, of more than 60%, in the number of fishing vessels from third countries inspected by the Spanish GSF. However, it appears that the methodology for counting has changed, which explains this difference. In the period 2012/2013 and 2014/2015, it seems that it was the number of inspection operations that were counted, whereas in the ensuing periods of 2016/2017 and 2018/2019 what was counted was the number of vessels inspected.

This explanation is supported by the fact that the number of landings in 2012/2013 was 385 and in 2014/2015 it was 322. So, if the figures for those years referred to the number of physical inspections, there would have been twice as many inspections as landings.

This shows how important it is to have clear guidelines for reporting on these biennial reports and that explanations should be provided when the numbers vary so widely.

²² The breakdown of number of landings for the each period is as follows: 2012/2013:385 total landings - 2014/2015:322- 2016/2017:295 - 2018/2019:310

²³ This information is included here, because it's a specific question asked from the Commission in the questionnaires, under the same section.

²⁴ According to Article 9.1 of the IUU Regulation "Member States shall carry out inspections in their designated ports of at least 5 % of landing and transshipment operations by third country fishing vessels each year, in accordance with the benchmarks determined by the procedure referred to in Article 54(2) on the basis of risk management, without prejudice to the higher thresholds adopted by regional fisheries management organisations".

On the other hand, according to the biennial report, Spain has surpassed its obligations under Article 9.1 of the IUU Regulation, which requires inspections in its designated ports of at least 5% of landing and transshipment operations by third-country fishing vessels every year.

8 Refusal of fish imports by Spain

Member States that import fishery products should verify the validity of CC containing the information demonstrating the legality of the import and will either authorise or refuse the importation based on whether or not conditions are met.²⁵

Member States should refuse the importation of fishery products whenever requirements under the IUU Regulation are not met. This is the case if:²⁶

- they are not accompanied by CC;
- the products are not the same products as those mentioned in the CC;
- the CC are not validated by the public authority of the flag State vessel;
- the CC do not include all the information;
- the product does not comply with indirect importation requirements^{27,28};
- the fishing vessel is included on an IUU vessel list;
- the CC have been validated by a non-cooperating State;²⁹
- the exporter was not entitled to request the validation of CC to the SGP; or
- the reply associated with a product’s verification has not been received or is not complete or adequate.

A high number of CC submitted for authorisation together with a low number of refusals could mean that controls are not being carried out properly. However, it can also mean that there is a decrease in the number of problematic consignments and that the system put in place now prevents operators from importing products that do not comply with the law.

Table 5 provides a response to the question of how many fishery product consignments Spain has refused. An explanation of the reasons for these refusals is provided in the table.

Table 5: Number of imports refused by Spain

Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2018/2019
42	58	24	13

²⁵ Recitals 15 to 19 to the IUU Regulation.

²⁶ Article 18 of the IUU Regulation.

²⁷ “Indirect importation” means the importation from the territory of a third country other than the flag State of the fishing vessel responsible for the catch. See Article 2.12 of the IUU Regulation.

²⁸ Indirect importation requirements are set on Article 14 of the IUU Regulation.

²⁹ According to the IUU Regulation, the Commission can adopt different actions for non-cooperating third countries in fighting IUU fishing. When the Commission has evidence that a third country does not fully cooperate it will issue a yellow card, which will pre-identify the country as non-cooperating. Or it can issue a red card, which will identify this country as non-cooperating and might involve its addition to the list of non-cooperating countries. Fisheries products from red card countries will be banned from the EU market. At:

https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_2288

<ul style="list-style-type: none"> • Non-submission of CC (2). • The products are not the same as those mentioned in the CC (2). • The CC are not validated by the public authority of the flag State (4). • Further to the request for verification (28). • From a flag State without notification³⁰ (1). • Non-compliance with RFMO rules (5). 	<ul style="list-style-type: none"> • Non-submission of CC (3). • The products are not the same as those mentioned in the CC (2). • The CC are not validated by the public authority of the flag State (5). • The importer cannot prove that the fishery products comply with indirect importation requirements (24). • A request for verification was non satisfactory (24). 	<ul style="list-style-type: none"> • Non-submission of CC (3). • The CC are not validated by the public authority of the flag State (4). • The CC do not indicate all the required information (5). • The importer cannot prove that the fishery products comply with indirect importation requirements (1). • A request for verification was non satisfactory (11). 	<ul style="list-style-type: none"> • Non-submission of a CC (3). • The CC are not validated by the public authority of the flag State (4). • Following the request for verification (4). • The CC have been validated by a non-cooperating State (2).
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The table above shows that there has been nearly a 70% drop in the number of consignments of fishery product imports refused by the Spanish authorities, from 42 during the 2012/2013 period to 13 in 2018/2019. This seems like a concerning state of affairs given that during the same period there was an increase in imports of 18%. An explanation could be that there has been an increase in compliance due to the reinforcement of the physical inspections and the introduction of a more robust IT system.

9 The use of a risk assessment approach for verification of fish imports

Member States must put systems in place to identify risks and manage them.³¹ This means implementing processes that allow government agencies to compile data, analyse and assess risk, prescribe and take action when needed, whilst regularly monitoring and reviewing the processes and their outcomes.^{32,33} Risk management processes help establish the conditions, procedures and frequency for carrying out checks, inspections and verifications of fisheries imports.³⁴

Table 6 provides an answer to the sixth key question of whether Spain used a risk assessment approach for verification of catch certificates during each period.

³⁰ On relation to flag State notifications, Article 20 of the IUU Regulation requires: "1. *The acceptance of catch certificates validated by a given flag State for the purposes of this Regulation shall be subject to the condition that the Commission has received a notification from the flag State concerned certifying that: (a) it has in place national arrangements for the implementation, control and enforcement of laws, regulations and conservation and management measures which must be complied with by its fishing vessels; (b) its public authorities are empowered to attest the veracity of the information contained in catch certificates and to carry out verifications of such certificates on request from the Member States. The notification shall also include the necessary information to identify those authorities*".

³¹ Article 16 of the IUU Regulation.

³² Articles 9 and 16 of the IUU Regulation

³³ Definition from Article 1.21. of the IUU Regulation.

³⁴ Recital 15 of the IUU Regulation.

Table 6: Spain's use of a risk assessment approach for verification of catch certificates

Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2018/2019
Yes	Yes	Yes	Yes
<p>Spain has been developing its risk assessment approach to detecting imports that have a high risk of originating from IUU fishing since the IUU Regulation came into force.</p> <p>The risk assessment criteria have been strengthened over the past decade, but generally include data provided, among others, by:</p> <ul style="list-style-type: none"> • EU and RFMO lists of vessels that practise IUU fishing; • alerts (mutual assistance, sightings, etc.) from the Commission and other Member States; • notices from third countries or NGOs; • lists of suspected ships; • lists of species that are prohibited or species of high commercial value; • lists of pre-identified countries listed as non-cooperating in the fight against IUU fishing; • inspections; • own computer applications (REVIPES³⁵ / SANCIPES³⁶); • sensitive fishing areas; • Interpol Purple Alerts or the EU Food Fraud network;³⁷ • inspections and infractions procedures; • national priorities established in the Annual General Fisheries Inspection Plan; • trade flows of fisheries products imports; and • refusals or requests for collaboration from the customs administration. <p>Depending on the issue identified, the GSF may decide to contact the importer, flag State or country of processing for further information through the verification process, elevate it to the IUU Intelligence Team, or proceed with the physical inspection of the vessel by fishing inspectors.</p>			

According to the table above and an assessment of their import control system, Spain has shown a high level of performance in implementing a risk assessment approach for the verification of imported products. Indeed, Spain has been developing a thorough risk assessment approach to detecting high-risk imports since the IUU Regulation came into force.

³⁵ Fisheries Surveillance and Inspection Network 4.0 (Red de Vigilancia e Inspección Pesquera 4.0.-REVIPES) At: <https://aplipes.magrama.es/REVIPES/>

³⁶ National Registry of Infractions (Registro Nacional de Infracciones-SANCIPES). At: <https://aplipes.magrama.es/sancipes/>

³⁷ The Food Fraud Network is a network composed of the Commission, the European Union Agency for Law Enforcement Cooperation (Europol), the liaison bodies designated by the Member States, and where relevant, the European Union's Judicial Cooperation Unit (Eurojust). At: https://ec.europa.eu/food/safety/food-fraud/ffn_en

However, it does not incorporate an automated and thorough risk analysis tool, which could speed up the process and make it possible to target documents produced by third countries and customs inspections more precisely. In addition, the risk assessment is not connected to other Member States' systems, which would avoid duplication of CC. This is why the next step should be to start using a pan-European database to pool and cross-reference the data with other countries and better target which documents produced by third countries and customs inspections need to be checked.³⁸ Once the legal basis exists, the adoption of the Commission's CATCH system will enable this.

10 Requests for verifications sent by Spain to third-country authorities

Member States should verify the validity of the CC of every fishery product intended to be imported and then either authorise or refuse the importation.³⁹ For the validation process, Member States may carry out all of the verifications they deem necessary to ensure compliance with the IUU Regulation requirements.⁴⁰ This includes examining the products, the declaration data, the existence and authenticity of documents, and the accounts of operators, inspecting the means of transport, carrying out official enquiries⁴¹ or requesting the assistance of the competent authorities of the flag State.⁴²

Nevertheless, the authorities must verify the following in all cases:

- a) The authenticity of the CC.
- b) The presence of a validation seal or of the signature of the relevant authority of the flag State.
- c) The fishing vessel's compliance with applicable laws, regulations or conservation and management measures.
- d) Any connection between the fishing vessels, fishing companies or any other operators with presumed IUU fishing.
- e) Reporting of flag States or re-exporting countries to an RFMO under the terms of an instrument adopted to implement trade measures.
- f) Alert notices published by the European Commission.⁴³

³⁸ For further information on risk assessment and verification of CC see "*Risk Assessment and Verification of Catch Certificates under the EU IUU Regulation*". Environmental Justice Foundation, Oceana, The Pew Charitable Trusts and WWF (2017). At: <http://www.iuuwatch.eu/wp-content/uploads/2016/07/Risk-Assessment-FINAL.DEC16.pdf>

³⁹ Recitals 15 to 19 to and Article 17.1. of the IUU Regulation.

⁴⁰ Article 17.2 of the IUU Regulation.

⁴¹ *Ibid.*

⁴² "Or of a third country in the case of indirect importations". See article 14 of the IUU Regulation.

⁴³ "*Where information obtained in accordance with Chapters II, III, V, VI, VII, VIII, X or XI raises well-founded doubt as to the compliance, by fishing vessels or fishery products from certain third countries, with applicable laws or regulations, including applicable laws or regulations communicated by third countries under the administrative cooperation referred to in Article 20(4), or with international conservation and management measures, the Commission shall publish an alert notice on its website and in the Official Journal of the European Union to warn operators and to ensure that Member States take appropriate measures in respect of the third countries concerned pursuant to this Chapter*". See Article 23.1 of the IUU Regulation.

A higher number of requests for assistance made to the competent authorities of a flag State may imply more efficient monitoring of the importations of fishery products. Having direct information from the flag State increases the exchange of data between countries and the possibility of detecting cases of IUU fishing.⁴⁴

Requests for assistance must contain:

- The copy of the CC.
- The justification for the concerns about the validity of the CC, about the veracity of the information contained in the CC and/or about the lack of compliance of the product with conservation and management measures.
- Any information or documents suggesting that the information on the certificate is inaccurate.

Table 7 answers the seventh key question of how many requests for verifications Spain has sent to third-country authorities.

Table 7: Number of requests for verifications sent from Spain to third-country authorities

Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2018/2019
1031	1113	771	1120
<p>Reasons for request:</p> <p>Verifications after mutual assistance messages from the Commission:</p> <ul style="list-style-type: none"> • Involvement in IUU fishing in West Africa. • Commission of IUU fishing violations in previous years. • Deficiencies in the control of the activity of vessels detected in the course of the Commission's audits. • Involvement in IUU fishing in waters under RFMO jurisdiction. <p>Verifications requested from third-country authorities:</p> <ul style="list-style-type: none"> • Non-compliance with RFMO conservation measures. 	<p>Reasons for request:</p> <p>Verifications after mutual assistance messages from the Commission:</p> <ul style="list-style-type: none"> • Engagement in IUU fishing in West Africa. • Committing IUU fishing violations in previous years. • Deficiencies in the control of the activity of vessels detected in the course of the Commission audits. • Engagement in IUU fishing in waters under RFMO jurisdiction. <p>Verifications requested from third-country authorities:</p> <ul style="list-style-type: none"> • Non-compliance with RFMO conservation measures. • Suspicion of fishing without the consent of the coastal State. 	<p>Reasons for request:</p> <ul style="list-style-type: none"> • Non-compliance with RFMO conservation measures (4%). • Suspicion of fishing without the consent of the coastal State (10%). • Doubts about the authenticity of CC (9%). • Suspicion of a stateless vessel (2%). • Doubts about the accuracy of the data contained in CC (20%). • CC cancelled or invalidated (13%). • CC used entirely in Spain with attempted reuse and without providing a re-export certificate, despite a declaration of processing in a third country (1%). • Doubts about the identity of the CC-validating authority (9%). • CC/Annex IV or Statistical Document inconsistent with the model (4%). 	<p>Reasons for requests:</p> <p>In 2018:</p> <ul style="list-style-type: none"> • Suspicious CC (48%). • Non-compliance with RFMO conservation measures (9%). • CC invalidated on the flag State's web page (7%). • Doubts about other certificates (26%). • Other (10). <p>In 2019:</p> <ul style="list-style-type: none"> • Suspicious CC (42%). • Non-compliance with RFMO conservation measures (5%). • CC invalidated on the flag State's web page (3%). • Doubts about other certificates (9%). • Yellow cards (37%).

⁴⁴ See "Improving Performance in the Fight Against Illegal, Unreported and Unregulated (IUU) Fishing. Spain – Leading Implementation of the EU's Regulation to Combat Illegal Fishing". Environmental Justice Foundation, Oceana, The Pew Charitable Trusts and WWF (2017). P.4. On: http://www.iuuwatch.eu/wp-content/uploads/2015/07/IUU_SPAIN_Brief_ENG.FINAL_June_HIGH.pdf

<ul style="list-style-type: none"> • Suspicion of fishing without the consent of the coastal State. • Transhipments at sea. • Doubts about the authenticity of CC. • Vessels sighted engaging in suspicious activities. • Suspicion of a stateless vessel. • Doubts about the accuracy of the data contained in CC. • CC cancelled or invalidated. • Doubts about the identity of a vessel. <p>Also, random verifications.</p>	<ul style="list-style-type: none"> • Transhipments at sea. • Doubts about the authenticity of CC. • Vessels sighted engaging in suspicious activities. • Suspicion of a stateless vessel. • Doubts about the accuracy of the data contained in CC. • CC cancelled or invalidated. • Doubts about the identity of a vessel. <p>Also, random verifications.</p>	<ul style="list-style-type: none"> • Duplicated CC (10%). • Alerts established in the Risk Analysis System (15%). • Random verifications (3%). 	
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The figures in this table show a slight increase in requests for verification over the period, albeit small. This is a positive sign, and a logical one given that there was also an increase in the volume of imports and the number of CC in Spain. It should be noted that during the 2016/2017 period, there was a clear drop in the number of these requests.

The table also shows that Spain has shown increasing rigour in complying with its reporting obligations by providing more data and more detailed information in the latest two biennial reports about the reasons for validation requests. Spain should continue to provide such information.

11 Refusal to validate catch certificates in the case of exports

Exporters submit the CC to the competent authority of the flag State to validate them. In the case of Spain, that would be the GSF. The GSF examine the CC and check that the information they contain is exhaustive, accurate and complies with the IUU Regulation requirements, with all the relevant laws and with the applicable management and conservation measures.⁴⁵

CC can then be validated and returned to the exporter, or refused when the GSF cannot ensure the information provided is correct.⁴⁶

If the GSF is properly monitoring the CC submitted to it, then we should expect the refusal of at least some of the CC presented for validation. A low number of refusals might be a sign that the validation process is not being carried out properly.

⁴⁵ See: European Commission Directorate-General for Maritime Affairs and Fisheries Policy Development and Co-Ordination Fisheries Control Policy. Ref: Mare A4/PS D(2009) A/12880. Fisheries control policy. "Handbook on the practical application of Council Regulation (EC) No. 1005/2008 of 29 September 2008 establishing an EU system to prevent, deter and eliminate illegal, unreported and unregulated fishing. (The IUU Regulation)". P.4. At: https://www.jfa.maff.go.jp/j/kakou/eu/q_a/pdf/handbook.pdf

⁴⁶ Idem. P.32.

Table 8 answers the eighth key question, which is whether Spain has refused the validation of any CC, and if so in how many cases.

Table 8: Number of catch certificate validations refused by Spain

Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2018/2019
Some (number of cases not available)		504	785
Validation was refused on several occasions, when the requirements of the established procedure were not met.		Most of the CC were refused were: <ul style="list-style-type: none"> Cancelled at the request of the applicant due to errors in the data provided by the exporter. Duplicate certificates. CC that cannot be issued due to the country of destination. 	

This table shows that there has been steady progress in the number of refusals by the GSF to validate CC, which suggests that there is an increasing scrutiny on products that are exported.

The table also shows that Spain has shown increasing rigour in complying with its reporting obligations by providing more data and more detailed information in the latest two biennial reports, specifying the number of refusals and indicating the exact reasons for each refusal. In future biennial reports, Spain should continue to provide such information.

12 The use of an IT tool to monitor catch certificates and processing statements accompanying imports and exports

The IUU Regulation stipulates that “the catch certificate may be established, validated or submitted by electronic means or be replaced by electronic traceability systems ensuring the same level of control by Member States’ authorities”.⁴⁷ Consequently, Member States have implemented different systems and are at different stages of their digitalisation process. Some have complex IT systems while others continue to carry out manual checks only.

It is commonly accepted by the EU institutions and Member States that there is a need for paper-based CC schemes to be replaced by digital systems. Digitalised systems can help avoid some of the risks associated with traditional paper-based systems, including duplication or CC fraud. It would also help increase traceability and ensure better monitoring of CC along supply chains and between countries, reducing the risk of laundering of IUU fishery products. In general, digitalisation would help standardise the control of fish imports across the EU and help prevent IUU imports from entering the EU market.

Table 9 answers the ninth key question of whether Spain has established an IT tool to monitor catch certificates and processing statements accompanying imports and exports.

⁴⁷ Article 12.4 of the IUU Regulation.

Table 9: IT tool established by Spain to monitor catch certificates and processing statements accompanying imports and exports

Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2016/2017
Yes			
<p>Spain's IT system introduced in 2010 to control fish imports is called SIGCPI (the Integrated System for the Management and Control of Illegal Fishing).</p> <p>SIGCPI checks 100% of the CC and processing statements (PS) regardless of the way in which the imports take place (sea, air, land). The application is designed for the registration and monitoring of:⁴⁸</p> <ul style="list-style-type: none"> • CC and PS for the authorisation of fish imports • Transit operations of fishery products to another Member State • Operations for accessing port services as well as landing and transshipment operations by third-country fishing vessels • Indirect imports accompanied by PS and a copy of the CC • Re-export operations of previously imported fishery products <p>The documentation that is attached to the application is examined by the operators of SIGCPI to ensure:</p> <ul style="list-style-type: none"> • The documents are valid, there are no missing data and the existing data are consistent. All fields of the CC and PS are checked. If the operators of the SIGCPI do not validate these fields, users must modify their requests. • The requested port is within the designated ports for this operation. • The fishing vessel and goods do not trigger an alert according to the Spanish internal risk analysis criteria. <p>Once all the verifications are made, the authorisation will be issued. Otherwise, further controls are carried out by the authorities, such as an examination by the IUU Intelligence Team or a physical inspection of the vessel by the fisheries inspectors.⁴⁹</p>			

Spain has maintained over the years its commitment to develop an IT tool to monitor the CC and PS that accompany imports and exports. SIGCPI has been developing over the years; different updated versions of the IT system have been launched and, for example, since 2017 a new functionality is being implemented to link it with the Single Customs Window (VUA). This function allows centralisation of all the documentation sent by economic operators related to imports, avoiding duplication of controls by the different national authorities.

Given the progress that Spain has already made when it comes to using digitalised systems, we believe that it is time for them to go one step further. Spain should lead the use of the EU-wide CATCH IT system on a voluntary basis in the next biennium 2020/2021.

⁴⁸ Spain. *Biennial reporting on the application of the IUU Regulation. Reporting period 2018-2019*. Section 4.5.

⁴⁹ For further information on SIGCPI system, check: ClientEarth "The Spanish system for digitalisation of fish imports: SIGCPI".

13 Number of infringements recorded by Spain

According to the IUU Regulation, nationals from Member States cannot engage in IUU fishing activities or be associated with entities who are. This includes, for example, operators or beneficial owners of fishing vessels. In all cases in which nationals may be involved in IUU fishing activities, Member States have a statutory duty to take appropriate action.⁵⁰

This obligation for Member States to initiate the corresponding procedures and to impose sanctions on nationals for involvement in IUU fishing activities is one of the most important measures laid down by the IUU Regulation. It ensures the Regulation’s coherent application and acts as a crucial deterrent for those who do not comply with the law.

In general, it is often the case that persistently high numbers of serious infringements under the IUU Regulation within EU waters or by EU operators are a direct consequence of sanctions that are loosely imposed and insufficiently deterrent. When infringements continue to flourish unabated, the incentive to stop is low.⁵¹

It is necessary to use the full force of administrative sanctions, in particular by imposing the maximum levels of sanctions applicable to serious infringements under the IUU Regulation. These sanctions also need to be enforced without delay.⁵²

Table 10 answers the tenth key question of how many infringements Spain has recorded. Has Spain detected serious infringements?

Table 10: Number of infringements recorded and serious infringements detected by Spain

Biennium 2012/2013	Biennium 2014/2015	Biennium 2016/2017	Biennium 2018/2019
102 infringements 3 serious infringements	99 infringements 3 serious infringements	58 infringements 11 serious infringements	37 infringements 11 serious infringements

During the 2012/2013 period, infringement proceedings were opened against:

- Spanish crew members on vessels included on the IUU list of the Commission for the Conservation of Antarctic Marine Living Resources, and in relation to the provisions of Article 39 of the IUU Regulation;
- vessels without a fishing licence from the flag State, but with a licence to fish in the waters of West African countries; and
- Belizean Vessels deleted from the flag State registry.

⁵⁰ Without prejudice to the primary responsibility of the flag State (see art. 39 of the IUU Regulation).

⁵¹ Recital 34 to the IUU Regulation.

⁵² Recital 34 to the IUU Regulation.

During the 2014/2015 period, three files for serious infringements proceedings were opened against nationals of vessels included in the list set up under the IUU Regulation of vessels engaged in IUU fishing.

During the 2016/2017 period, serious infringement proceedings were opened and sanctions imposed to:

- Spanish companies within the framework of Operations Sparrow I and II,⁵³
- stateless vessels from Indonesia and Curaçao;
- one vessel from China engaged in IUU fishing;
- one vessel from the Comoros fishing against the flag State's regulations;
- one Spanish vessel for obstruction of an inspection; and
- an Algerian vessel and a Thai vessel for false CC.

As a result of these serious infringement proceedings, six different sanctions were imposed, consisting of monetary fines (2 cases) and seizure of the merchandise (4 cases).

In 2018/2019, 11 serious infringement proceedings were opened for fishing against RFMO regulations, false CC, not submitting CC and inspections obstructions. As a consequence, five sanctions imposed: monetary fines (3 cases) and seizure of the merchandise (2 cases).

This table shows that there has been a decrease in the number of infringements recorded by Spain by more than 50% between 2012 and 2019. On the contrary, there has been an increase in the number of serious infringements detected. At first glance, the results of the inspections carried out by Spain did not result in as many infringements, which is a negative indicator of the efficiency of the Spanish inspection system. However, this could also suggest that there have been fewer infringements, given that at the same time there has been an increase in the number of serious infringements.

In relation to the imposition of sanctions:

- The questionnaire that the Commission submits to Member States does not request information on sanctions imposed as a result of infringement proceedings. However, it does request it in relation to serious infringements. The information on all sanctions imposed is key to determining the effectiveness of the system.
- Based on the information we have for years 2016/2017 and 2018/2019, only about half of serious infringement proceedings have resulted in the imposition of sanctions, which may mean that the proceedings have been suspended or that the proceedings have been ineffective.

⁵³ For further information on Operations Sparrow I and II check: ClientEarth. *The Spanish prosecution of nationals for involvement in illegal fishing: A story of success?* On. <https://www.documents.clientearth.org/wp-content/uploads/library/2019-07-31-the-spanish-legal-process-for-prosecuting-illegal-fishing-a-story-of-success-ce-en.pdf>

14 Conclusions

Conclusion 1: Biennial reports that are submitted to the Commission are efficient tools to monitor and verify the implementation of the IUU Regulation by Member States, but they present limits inherent in self-reporting, and in the simplicity of a two-page questionnaire; and they are of limited use when they are the sole source of information.

Recommendations:

- The Commission should publish all biennial reports presented by Member States on their website, in the same way they have agreed to do so for reports submitted by EU Member States regarding their implementation the Fisheries Control Regulation. This would also be in line with the European Ombudsman's recommendation in case 452/2018/AMF⁵⁴, which was accepted by the Commission.⁵⁵
- The Commission should conduct further audits in the different Member States to verify the accuracy of the data provided in the biennial reports. These audits should then be made public, using aggregated data to make sure that the privacy of individuals and of ongoing or past investigations is respected, as they are in the case of other food commodities.
- The Commission should improve the biennial report questionnaire to ensure valid information is provided by Member States, to avoid confusion, and to ensure citizens have confidence in the reports' accuracy and usefulness. The Commission can do this by attaching and making public a template, handbook or similar, explaining each of the questions.
- The Commission should request information on all sanctions imposed related to infringement proceedings and not limit information to serious infringements.
- The Commission should take actions against Member States that fail to comply with the reporting obligation under Article 55 of the IUU Regulation, or that report late.
- The Commission should give feedback on the format and way in which questionnaires presented by Member States are completed. This would help ensure better compliance with Member State reporting obligations, allowing them in turn to refine upcoming biennial reporting as well as ensure consistent reporting approaches among Members States and from biennium to biennium.

⁵⁴ See: "Recommendation of the European Ombudsman in case 452/2018/AMF on the European Commission's failure to disclose information on the existence of EU Pilot dialogues and to publish proactively Member State reports on the implementation of the Fisheries Control Regulation" (2018), European Ombudsman. Point 24 states that "to give effect to the active dissemination of environmental information foreseen in the Aarhus Regulation and bearing in mind the principles of good administration, the Ombudsman suggested that the Commission proactively publish the Member State reports on the implementation of the Fisheries Control Regulation."

⁵⁵ "The Commission agreed to the Ombudsman's suggestion and stated that it will publish all future Member State reports on the implementation of the Fisheries Control Regulation. Before publication, the Commission will ask the consent of the Member States to publish certain data contained in the reports." At:

<https://www.ombudsman.europa.eu/fr/decision/en/122854>

Conclusion 2: With the exception of its most recent report, Spain has shown rigour in complying with its reporting obligations under Article 55 of the IUU Regulation, presenting reports on time and assessing an adequate level of detail.

Recommendations:

- The latest report was presented by Spain late and is partly redacted. Spain must resume its thoroughness in submitting biennial reports on time and making sure all the information in the reports can be available.
- Spain should maintain the same level of detail, and improve, wherever necessary and possible, the data provided in the biennial reports.
- Spain should give further explanations for certain data to enable proper interpretation of the questionnaire. For example, data content varies from one biennial report to the other despite being given in response to the same question (notably the question about the number of inspections or vessels inspected – section 7 above).

Conclusion 3: Spain has arguably maintained steady progress in most areas of the implementation of the IUU Regulation. There is tentative evidence that the regime of control of imports put in place by Spain since 2010 is delivering results and that compliance is increasing. This evidence includes:

- checking 100% of catch certificates (CC) for third-country fishery products;
- increasing annually the number of officials involved in the fight against IUU fishing;
- developing and implementing a risk assessment approach for verification of CC;
- refusing validation of CC, when necessary;
- ensuring all the necessary refusals of imports;
- sending the required requests for import verifications; and
- improving its own IT tool to monitor fisheries imports.

Recommendations:

Spain must continue to move forward, maintaining and improving its system in those areas in which it has shown a high level of performance:

- The SGP must keep checking all CC for third-country fishery products entering EU territory.
- Spain must continue providing the SGP with more human and material resources so that it can continue, through the Sub-Directorate of Control and Inspection, to monitor imports of fishery products effectively and in accordance with the IUU Regulation.
- Spain should begin to use CATCH, to enhance the electronic EU-wide database for CC and PS information and to provide a digitalised risk-based assessment that makes cross-checking of CC with risk information possible.
- An impact assessment of the efficacy of the control system should be carried out, to measure whether the drops in imports refused by Spain and of the overall number infringements detected is justifiable and reflects an effective strategy by the authorities.

Conclusion 4: There has been no progress or even clear regression in the implementation of specific areas of the IUU Regulation, particularly prosecutions of IUU fishing activities and number of refusal of imports.

Recommendations:

- Spain must improve the procedure for the prosecution of IUU fishing activities by increasing the number of inspections, opening proceedings in all cases of infringements and ensuring that when sanctions and penalties are issued, the perpetrators pay their fines completely and on time.
- Spain should provide specific training to all relevant national authorities and officials on the details related to infringements, sanctions and procedures related to IUU fishing.
- Spain should ensure the effectiveness of its control system by refusing all imports where necessary.

Conclusion 5: Spain must continue to implement the IUU Regulation beyond standards during the next two years (2020/21), in order to set an example of good practice to other Member States.

Recommendations:

Spain should lead the fight against IUU fishing and encourage the EU and the other Member States by becoming a true lever for the changes that need to be implemented across the EU. As such, Spain should lead in the promotion of:

- A harmonised implementation of the IUU Regulation by the EU Member States. This would ensure equal standards for the control measures applicable to imports of fishery products and ultimately, the establishment of a level-playing field and non-discrimination between EU operators.
- The use of CATCH, the electronic EU-wide database for processing, cross-checking and storing CC and PS information, by all 27 Member States.
- The creation of a specific unit for IUU fishing within the State security forces of each relevant Member State, to provide all necessary human and material resources to effectively control the fishing activities of its nationals all around the world.
- A better coordination within Member States among the various public bodies involved in the fight against IUU fishing in the EU – whether directly (fisheries agencies) or indirectly (national security forces) – on the import control activities so that measures are efficiently implemented and in accordance with clear strategies and structured plans.
- More emphasis within Europol and Eurojust on cooperation between Member States, where needed, in the investigation and prosecution of offences related to IUU fishing, including placing a distinct institutional emphasis on IUU fishing within those bodies”.
- More efficient coordination between the various international bodies involved in the fight against IUU fishing in relation to their control activities – with shared electronic databases, clear strategies and structured plans that result in the lowest possible level of IUU fishing practices at international level.

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