



# REPLIES OF THE EUROPEAN COMMISSION

TO THE EUROPEAN COURT OF  
AUDITORS' SPECIAL REPORT

**EU action to combat illegal fishing** - Control systems in place but weakened by uneven checks and sanctions by Member States

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This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 259 of the [Financial Regulation](#) and to be published together with the Special Report.

# EXECUTIVE SUMMARY (Paragraphs I-V)

## Common Commission reply to the executive summary

### I. - IV.

The Commission welcomes this audit and its conclusions on the EU's system to fight Illegal, Unreported and Unregulated (IUU) fishing.

IUU fishing is a global problem. It undermines national, regional and multilateral efforts to conserve and manage fish stocks and, as a consequence, inhibits progress towards achieving the goal of long-term sustainability of marine living resources. By fighting IUU fishing activities, the global community can achieve better compliance with applicable rules and regulations. However, fighting IUU fishing cannot itself ensure the sustainable use of marine resources as this requires first and foremost, the adoption of effective conservation and management measures for the relevant stocks and their ecosystems. Therefore, the EU continues to act within all Regional Fisheries Management Organisations of which it is a member and with relevant third countries with whom the EU has bilateral agreements to establish such measures, in line with scientific advice, and to ensure compliance with those measures by the EU and by third country fleets.

The EU's "IUU Regulation" (Council Regulation EC 1005/2008) has a universal, transparent and non-discriminatory scope. Its catch certification scheme aims at ensuring that fishery products obtained from IUU fishing activities anywhere in the world cannot enter the Union market. The IUU Regulation also empowers the European Commission to identify countries, which do not cooperate in the fight against IUU fishing. This provides for an occasion for dialogue between the European Commission and third countries with the objective to ensure that all nations abide by their international commitments in the fight against IUU fishing. These dialogues are unique opportunities for cooperation and promotion of fisheries compliance and governance worldwide.

The EU fisheries control system requires Member States to impose effective, proportionate and dissuasive sanctions for all serious infringements of the rules of the Common Fisheries Policy. While most serious infringements lead to sanctions, considerable differences exist across Member States on the type and level of sanctions imposed for similar serious infringements, as well as on the use of other accompanying measures. This situation has the practical effect of undermining fisheries control at large by, *inter alia*, depriving those sanctions of their effective and dissuasive nature, while also negatively affecting the development of a level playing field and a culture of compliance within the Union. Not least, that contributes to increasing the risk of IUU fishing.

**The Commission notes that many of the shortcomings identified by ECA and its recommendations relate mainly to the implementation of checks and sanctions at Member State level.** While the Commission has recently initiated EU-pilots against individual Member States to address possible specific shortcomings in their control and sanctioning systems, it is the Member States who are responsible for the correct application of the EU fisheries control system to ensure compliance with the Common Fisheries Policy, as ECA also concludes in paragraph 64.

In order to create a level playing field and address weaknesses, including a number of those identified by ECA in this (and its previous) audit, the Commission has proposed in 2018 (COM/2018/368 final) a number of changes to the existing legislation, which are currently still under negotiation with the European Parliament and the Council. The proposal seeks, *inter alia*, to improve the harmonisation of the Member States' sanctioning systems, in particular for serious infringements. This includes the automatic qualification of certain infringements as serious, more

harmonised criteria for determining the gravity of other infringements, and the establishment of standardised minimum and maximum levels of sanctions for serious infringements.

**The adoption of the Commission's 2018 proposal on the revision of the EU's fisheries control system by the EU co-legislators would help the Commission to follow-up on several weaknesses at Member State level identified by ECA in the context of this audit, including the mandatory use of the digital IT-CATCH-system that would harmonise risk management in the catch certification area, as well as a more effective and harmonised sanctioning system.**

**V.** The Commission accepts both recommendations in relation to the legal framework currently in force within its role and scope of action.

## INTRODUCTION (Paragraphs 1-23)

### Commission replies:

**10.** The Commission considers that fighting IUU fishing cannot itself ensure the sustainable use of marine resources as this requires first and foremost, the adoption of effective conservation and management measures for the relevant stocks and their ecosystems. Thus, unsustainable fishing is not the same as IUU fishing. Ending IUU fishing is not the same as ending unsustainable fishing.

**14.** The IUU Regulation does not cover only imports of fishery products. It also entails obligations for Member States not only for imports but also for landings by third country vessels and nationals as well as the IUU vessel list and the dialogue system with third countries in order to improve the global fight against IUU fishing. The Fisheries Control Regulation also covers compliance of third country vessels fishing in EU waters and compliance of operators in the supply chain.

## AUDIT SCOPE AND APPROACH (Paragraphs 24-26)

No Commission replies.

## OBSERVATIONS (Paragraphs 27-91)

No Commission replies.

## CONCLUSIONS AND RECOMMENDATIONS (Paragraphs 92-103)

### Commission replies:

**94.** The Commission shares the ECA assessment that the control systems in place to combat illegal fishing are only partially effective and has therefore proposed changes in the context of its proposal for a revision of the fisheries control regulation.

**98.** The objective of the carding process is not only to prevent fishery products stemming from IUU fishing entering the EU. The objective is also to promote that all countries abide by their international obligations as flag, coastal, port or market State as regards the fight against IUU fishing.

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

**1.A.** The Commission accepts this recommendation.

In addition to the 2019 introduction by the Commission, upon request from Member States, the European Parliament and NGO's an EU-wide IT system, CATCH, to monitor catch certificates and facilitate checks and verification procedures, the Commission has proposed as part of its proposal on the revision of the Control Regulation (COM(2018)368) a legal basis for the compulsory use of CATCH by EU stakeholders (authorities, importers and operators). The Commission is confident that once the legal basis for the compulsory use of IT CATCH by EU authorities and operators is adopted by the Council and the European Parliament, it will contribute to the implementation of the recommendation.

Pending the adoption of the proposed revision of the Control Regulation, since 2020 the Commission, in cooperation with the Member States, is working on the identification and related IT developments of automated risk alerts and automation of certain checks in the IT CATCH context and will continue this work.

The Commission accepts the target implementation date of 2026, in so far as the legal basis for the compulsory use of CATCH by stakeholders, which is part the Commission proposal COM(2018)368 on the revision of the Control Regulation, is adopted by the Council and the European Parliament in due time before the target date, which is beyond the Commission's control.

**1.B.** The Commission accepts this recommendation in relation to the legal framework currently in force.

In relation to the uniform use of risk identification criteria, the Commission agrees with Recommendation 1(b) to the extent that it refers to the current legal basis (Article 17(3) of the IUU Regulation) foreseeing the possibility by Member States to use Community or national criteria for risk identification.

The Commission has already used the reports from Member States on the implementation of the IUU Regulation, which must be submitted every two years in accordance with Article 55, to address obvious shortcomings in their implementation. The Commission sent letters to Member States identifying areas to be improved and asked for actions to rectify these weaknesses.

**1.C.** The Commission accepts this recommendation in relation to the legal framework currently in force.

The Commission has already revised the questionnaires for the Member States' reports foreseen under Article 55 of the IUU Regulation for the last reporting period 2020-2021; and will follow up with Member States if necessary.

**103.** The Commission fully shares ECA's concerns regarding the uneven application of sanctions by Member States. In 2019, in order to deepen its knowledge of the Member States' sanctioning systems, the Commission conducted a study covering twenty-two Member States, which pointed out serious shortcomings regarding the application of sanctions and their dissuasive effect. To further analyse and address the shortcomings raised in the study, the Commission services will launch EU-Pilots with the majority of the Member States concerned and is assessing the situation in the remaining Member States to identify the most appropriate follow-up action.

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

**2.A., B. & C.** The Commission accepts the Recommendations 2(a), 2(b) and 2(c) in relation to the legal framework (Control Regulation and IUU Regulation) currently in force, within its role and scope of action.

As pointed out in its reply to paragraph 103 above, the Commission fully shares ECA's concerns about uneven, non-effective or non-dissuasive application of sanctions. Therefore, the Commission is working – and will continue to work – with Member States on the uniform and effective application of dissuasive sanctions through continued checks and monitoring of all the elements addressed in Recommendations 2(a), 2(b) and 2(c), in the context of the follow-up of its 2019 study. Such monitoring is intrinsically linked with the follow-up to Recommendation 2(d). See therefore in this context also the Commission's reply to Recommendation 2(d).

In this context, the Commission will launch EU-Pilots with a majority of the Member States concerned.

It should also be noted that the Commission, in its 2018 proposal for a revised fisheries control system, has proposed a number of changes to the existing legislation to improve the harmonisation of the Member States' sanctioning systems, in particular for serious infringements. This includes more harmonised 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. However, the content and timing of the revision of the fisheries control system will depend on the outcome of the ongoing negotiations with the European Parliament and Council, in particular as regards the minimum sanctions.

The Commission accepts the target implementation date of 2024.

Considering the ongoing ordinary legislative procedure (see the paragraph above) and the complexity of the matter, the Commission considers that this target implementation date can only refer to the Control Regulation that is currently in force.

In this regard, the level of harmonisation referred to in recommendation 2(c) can only be limited to what is possible according to the legislation in force.

**2.D.** The Commission accepts this recommendation.

In order to address the identified shortcomings in the Member States' sanctioning systems, and depending on the outcome of the EU-Pilots, the Commission may need to take remedial measures at a later stage to ensure that the Member States' sanctioning systems are effective, proportionate and dissuasive and provide a level playing field. Those remedial measures might include Action Plans, administrative inquiries and / or infringement proceedings.

See also the Commission's reply to above Recommendations 2(a), 2(b) and 2(c), as regards its legislative proposal, which addresses these shortcomings.

The Commission accepts the target implementation date of recommendation 2(d) to launch actions such as action plans. In case the necessary actions to remedy the shortcomings include infringement proceedings, more time would be required, in particular considering that the recommendation concerns all Member States.