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Pravna podrška pregovorima

# Main demands for prevention and control of IUU fishery activities



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plac II  
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# Presentation I

## The EU and IUU fishing



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in consortium with:  
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IRZ, European Profiles,  
Eurosupport and Eptisa

EuropeAid/137065/DH/SER/RS  
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## Background to Regulation 1005/2008

- Illegal, unreported and unregulated (IUU) fishing – a very real threat to the sustainable harvesting of marine resources.
- depletes fish stocks and threatens habitats, with cross-boundary effects for marine areas both national and on the high seas.
- The problem is lack of governance – at the national level and on the high seas under RFMO control.





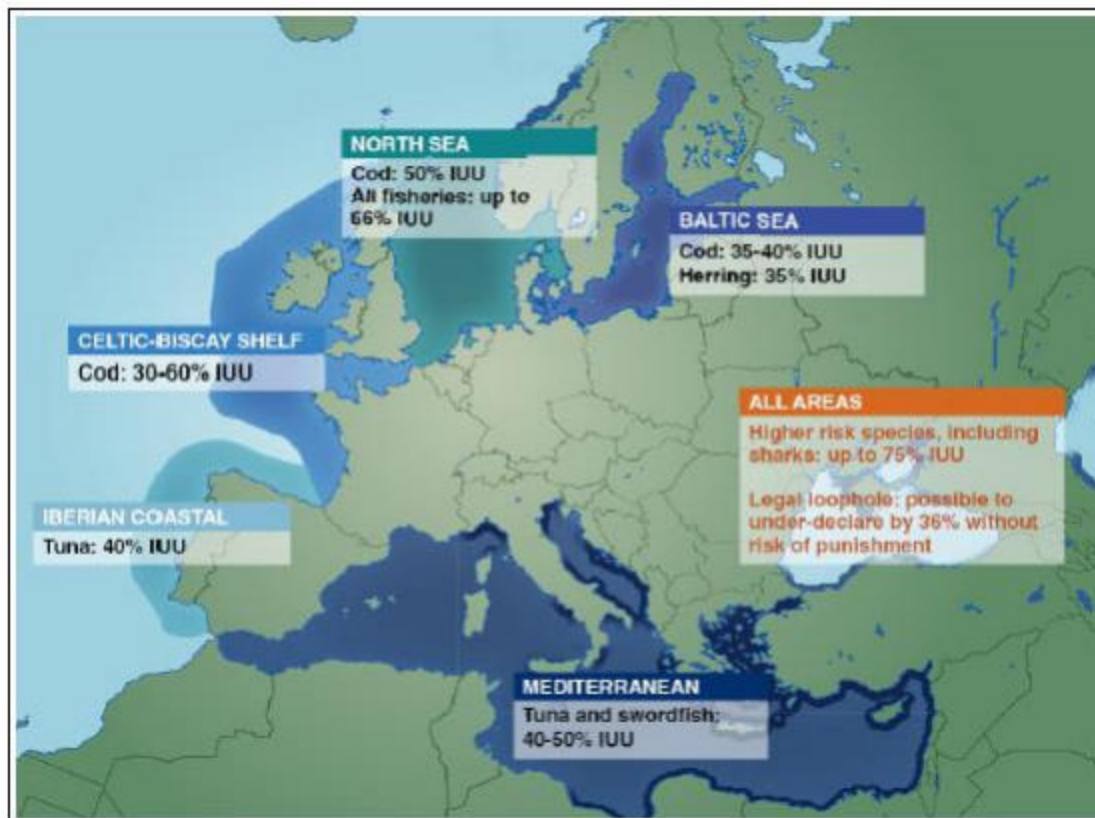
## Key International Agreements & Documents

- 1982 UN Convention on the Law of the Sea
- 1993 Compliance Agreement
- 1995 Agreement ... on Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA).
- 2001 FAO international plan of action to prevent, deter and eliminate IUU fishing
- NB *GATT rules of origin also apply*



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## Estimated amount of IUU catches in European area - 2008



Catch losses  $\approx$  €10 bn; stock losses  $\approx$  13 bn; lost jobs  $\approx$  32 000

Source: EFTEC (2008) *Cost of IUU fishing in EU fisheries*, Economics for the Environment Consultancy Ltd, London;



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- Yes, it's about international rules on conservation



## BUT

- it's also about the terms of trade: How can the European fishing industry compete with fishing nations that DON'T respect the fishing rules that EU fishing vessels obey?
- Answer: Make the rules apply to both





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## Put more simply

- A fishing vessel shall be presumed to be engaged in IUU fishing\* if it is shown that
- Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.





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- it has fished without a valid license, authorisation or permit issued by the flag State or the relevant coastal State; or
- not fulfilled its obligations to record and report catch or catch related data or is not transmitting VMS data; or
- fished in a closed area, during a closed season, without or after attainment of a quota or beyond a closed depth; or
- engaged in directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited; or
- used prohibited or non-compliant fishing gear; or
- falsified or concealed its markings, identity or registration; or



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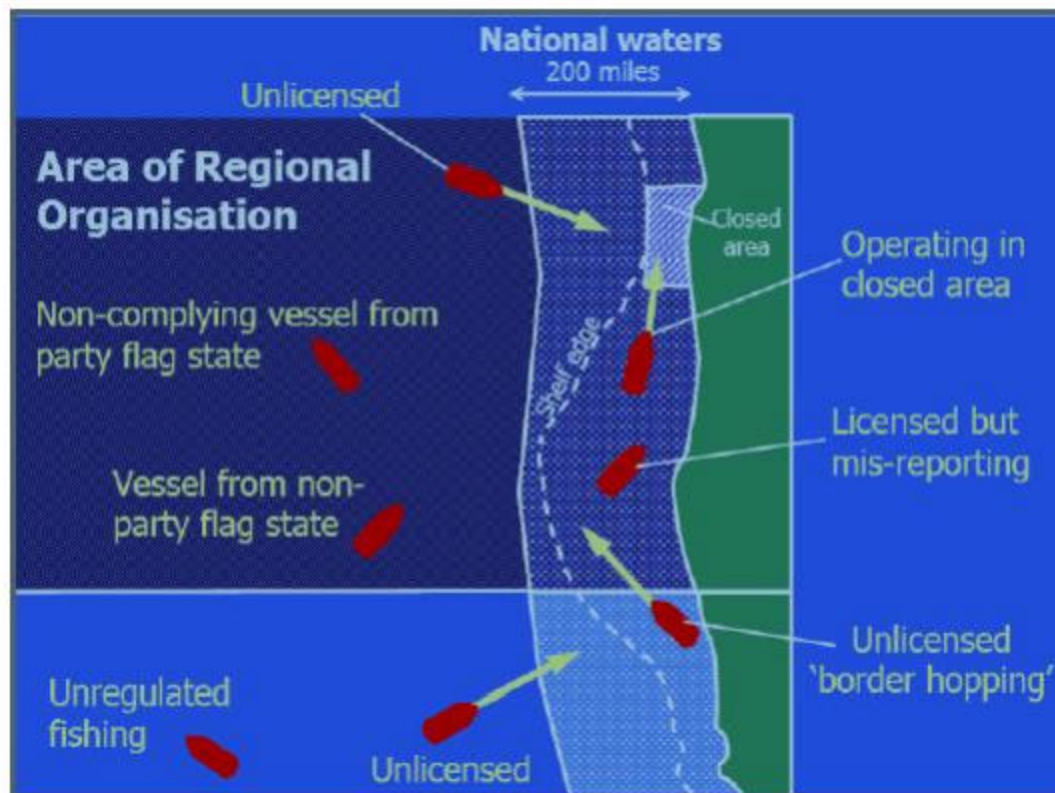


- concealed, tampered with or disposed of evidence relating to an investigation; or
- obstructed the work of officials in the exercise of their duties in inspecting for compliance; or
- taken on board, transhipped or landed undersized fish in contravention of the legislation in force; or
- transhipped or participated in joint fishing operations with, in particular those included in the Community IUU vessel list; or
- carried out fishing activities in the area of a regional fisheries management in contravention of the conservation and management measures; or
- *no nationality and is therefore a stateless vessel, in accordance with international law.*



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## Illustration of IUU fishing types



Source: A Reader: Resources on Illegal, Unreported and Unregulated (IUU) fishing. **Briefing session n° 10 - Fighting against Illegal, Unreported and Unregulated (IUU) fishing: Impacts and challenges for ACP countries.** Brussels, 29 April 2009



## **Legal Basis – primary legislation**

**Council Regulation (EC) No 1005/2008** of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU Regulation)

**Commission Regulation (EC) No 1010/2009** of 22 October 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008





- **Administrative arrangements with 3rd countries**
- [Commission Implementing Regulation \(EU\) No 865/2013](#) of 9 September 2013 amending Regulation (EC) No 1010/2009 as regards administrative arrangements with third countries on catch certificates for marine fisheries products
- [Commission Implementing Regulation \(EU\) No 336/2013](#) of 12 April 2013 amending Regulation (EC) No 1010/2009 as regards administrative arrangements with third countries on catch certificates for marine fisheries products
- [Commission Implementing Regulation \(EU\) No 1222/2011](#) of 28 November 2011 amending Regulation (EC) No 1010/2009 as regards administrative arrangements with third countries on catch certificates for marine fisheries products
- [Commission Regulation \(EU\) No 395/2010](#) of 7 May 2010 amending Commission Regulation (EC) No 1010/2009 as regards administrative arrangements on catch certificates
  - [Commission Regulation \(EU\) No 86/2010](#) of 29 January 2010 [...] amending Commission Regulation (EC) No 1010/2009 as regards [...] administrative arrangements on catch certificates
- **Exempted Products**
- of 1 March 2011 amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products [...]
- [Commission Regulation \(EU\) No 86/2010](#) of 29 January 2010 amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products [...]



## Main features of IUU initiative in EU

### *The IUU Regulation*

- combats IUU fishing by imposing trade-related measures against fishing vessels and foreign states that
  - support IUU fishing or
  - fail to provide adequate documentation validating fisheries products.
- Makes access to EU markets conditional on exported fish products being completely free or increasingly free of IUU fishing.

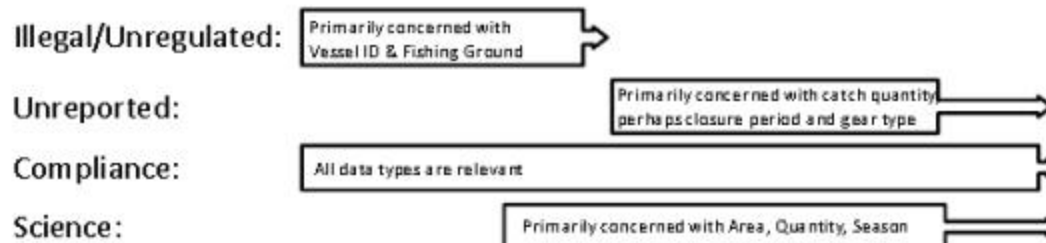
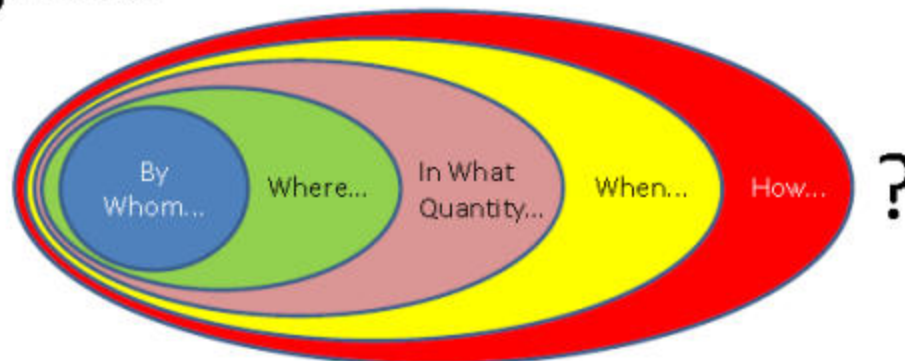




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## Catch Certification scheme to counter IUU

# Caught...



Source: **Best Practice Study of Fish Catch Documentation Schemes**. MRAG 23 August 2010





- Article 1 applies to IUU fishing and associated activities carried out within the jurisdiction of EU member states, PLUS Community and non-Community vessels on the high seas or in the waters under the jurisdiction of a third state
- Applies to fishing vessels, including
  - support ships,
  - fish processing vessels, and
  - vessels engaged in transshipment and
  - carrier vessels equipped for the transportation of fishery products, (except container vessels)”.
- Control, sanctioning and conditionality elements include:
  - port state controls over third country fishing vessels,
  - catch certification requirements,
  - establishment of a Community IUU vessel list, and
  - establishment of a list of non-co-operating third countries.





## ***Port control of third country fishing vessels (1)***

- Arts 4 & 5 require that landings or transshipments by third country fishing vessels only take place in designated ports of EU member states, conditional on :
  - third country fishing vessels submitting prior notice of entry and
  - specific information required by competent authority (Art. 6).
  - notice of intention to enter into port , accompanied by a validated catch certificate if fishery products on board (Art. 6).
  - Entry of FV to MS port only after the catch certificate and other information have been (Art. 7).







## ***Port control of third country fishing vessels (2)***

- EU MS required to carry out port inspections of at least 5% of landings and transshipment operations by third country fishing vessels each year (Art. 9).
- Mandatory inspection of all fishing vessels that have been sighted or presumed to have conducted IUU fishing and have been reported in the Community alert system, or have been listed under the RFMO IUU List (Art. 9).
- If the results of inspection show evidence that a third country fishing vessel has engaged in IUU fishing, the EU port member state is required to follow various notification procedures and prohibit the landing or transshipment of catch in port (Art. 11).







## ***Catch certification requirements***

- fishery products must be accompanied by a catch certificate, completed by FV skipper master and validated by the flag state.
- **Exportation and indirect importation of fishery products subject to validation of a catch certificate by the competent authorities (Arts 14 and 15).**
- Catch documents and related documents validated in conformity with RFMO catch documentation schemes ,recognized by EU as compliant, are acceptable as catch certificates for applicable species (Art. 13).
- MS competent authorities carry out all of the controls necessary for the validation of the catch certificate and other information provided (Art. 17).
- Actions may be taken against third country fishing vessels that have not complied with the catch certification requirements, including refusal to import fishery products from fishing vessel (Art. 18)





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## ***EU IUU vessel list***

- IUU vessel list containing information on vessels identified by the EU and MS as IUU fishing (Art. 25).
- Vessel list includes IUU vessels listed by RFMOs on their respective lists (Art. 30).
- Actions that may be taken by EU member states against vessels on the Community IUU vessel list are varied, and include:
  - prohibitions on the grant of fishing authorisations;
  - withdrawal of fishing permits;
  - refusal of access to EU ports and port services;
  - confiscation of catches and gear;
  - and prohibitions regarding the exportation and re-exportation of fisheries products (Art. 37).
- EU MS flagged FVs forbidden to assist or engage in fish processing operations, joint fishing operations or transshipment activities with fishing vessels on the IUU vessel list (Art. 37)





## ***EU list of non-co-operating third countries (1)***

- A state may be identified as a non-co-operating third country if it fails to discharge the duties imposed upon it under international law as flag, port, coastal or market states and to take action to prevent, deter and eliminate IUU fishing activities (Art. 31).
- The listing is based on a number of considerations and factors, including:
  - the examination of measures taken by the state to combat IUU fishing;
  - whether the state is co-operative with the EU in respect of investigations and responses to IUU fishing;
  - the capacity of competent authorities in developing countries;
  - ratification or accession to international fisheries instruments;
  - and the nature of the state's participation in RFMOs (Art. 31).





## ***EU list of non-co-operating third countries (2)***

- Prohibition on the importation into the EU of fishery products caught by fishing vessels of non-co-operating third countries, and non-acceptance of catch certificates accompanying such products (Art. 38).
- where a non-cooperating state lacks appropriate measures to IUU fishing activities affecting a particular stock or species, the importation prohibition may only apply in respect of this stock or species (Art. 38).
- Also provides for the denunciation by the EU of any standing bilateral fisheries agreement or fisheries partnership agreements with such states, as well as refusal to enter into negotiations to conclude a bilateral fisheries agreement or fisheries partnership agreements with such states (Art. 38).





## ***Exemptions***

Products excluded from the scope of the IUU Regulation & catch certification scheme, include:

- Aquaculture products obtained from fry or larvae,
- freshwater fish,
- ornamental fish,
- mussels,
- oysters,
- scallops,
- snails and
- other products of minor importance.

(see Commission Regulation (EU) No 202/2011





## ***Other excluded products***

Excluded products such as:

- fish waste or other fishery products not fitted for human consumption...),
- fish fats and oils...,
- extracts and juices of fish, crustaceans, molluscs and other aquatic invertebrates...
- stuffed pasta containing more than 20 % in weight of fish, crustaceans, molluscs and other aquatic
- invertebrates...),
- flours, meal and pellets of fish, crustaceans, molluscs and other aquatic invertebrates, fish solubles, fish feed...), etc.





## Serbia and IUU

- Not a marine fishing nation (unless there are Serbian flagged FVs)
- Not a port state

## BUT

- It is an importing state and
- Processes fish
- Therefore it is required to validate/check import documents

See next presentation



# Checking documents

## This is not risk-free

### Example:

- Regulation 202/2011
- **Annex I: List of products excluded from the definition of “fishery products” set out in point 8 of Article 2**

ex Chapter 3	Aquaculture products obtained from fry or larvae
ex 1604	
ex 1605	

- Bluefin tuna imported from Croatia are aquaculture products BUT are caught as mature fish therefore - although an aquaculture product -they need a validated CC



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# Thank you