



A Guide to The Control Document Process

There are many excellent traceability and legal verification programs out there, but sometimes, when it comes to weeding out illegal activities across an entire fishery, farming region, or supply chain, such programs are not enough. If those programs fail, the damage goes beyond a single fishery or farm. Illegal activities and the failure to detect them expose all customers and suppliers to the risks associated with those fisheries and supply chains, regardless of individual supply chain efforts. They also expose responsible producers to unfair competition from producers with poor compliance.

The control document process is different. It encourages all producers to comply with key regulations, ensuring a level playing field for producers and helping to protect both their business reputation and the status of the raw material resources they rely on.

When do we need a control document?

Why standard traceability and legal verification programs are sometimes insufficient

- Government Monitoring, Control and Enforcement (MCE) efforts are sometimes insufficient, highlighted by clear examples of actors breaking regulations.
- Individual traceability and legal verification programs typically only accept or reject products on a shipment-by-shipment basis, meaning all a supplier risks losing is one shipment – not a big deterrent to stopping illegal practices.
- Even where an individual customer goes further and boycotts a supplier that fails a shipment, the supplier now only risks losing one customer. Hence unscrupulous suppliers cheat and try to deceive auditors and ride the odds, or choose to supply one customer with legal product while continuing to supply other customers illegally.
- That means even responsible suppliers are lukewarm in their support because it looks futile and wrong-headed – all they are doing is adding costs to their business while their less scrupulous competitors continue largely unaffected and the underlying problems are not solved. In short, they adopt the mentality of, “If he’s doing it, why can’t I?” The responsible suppliers have the added burden of convincing producers further down the supply chain to comply, because their customers won’t pay sufficiently more for legal verified product, which can ultimately be expensive.
- Individual companies can set up these traceability and verification programs, often costly, within their individual supply chain and source legal product from an illegal fishery – keeping in mind the points made above. However, as long as the fishery is illegal, there is a threat both to the accuracy and effectiveness of those programs and to the reputational risk of the companies involved.

What will the control document do?

- Greatly reduce the amount of Illegal, Unreported, and Unregulated (IUU) material in the entire supply chain and throughout the whole fishery or farm region
- Isolate and remove illegal actors and enhance incentives (i.e., market access) for compliance with domestic and international regulations
- Reduce reputational risk for those acting responsibly
- Ensure the future health of fish stocks and assure supply into the future
- Enforce legal requirements regarding human rights and labor conditions within the supply chain
- Dramatically increase the financial deterrent and coerce illegal suppliers to comply across their business
- Offer responsible suppliers a way to meet their customers' demands in a financially viable and practical way, along with a level playing field with all their competitors, that fixes the underlying problems in the entire fishery or farming region.

How does the control document work?

- The control document approach works when a critical volume of customers demand all their suppliers conduct business legally across the entire supply chain.
- The control document stipulates that “**all** products and materials supplied by the Supplier to **any** Purchaser or any other customer of, or purchaser from, the Supplier are legally caught and conform fully to all applicable national and international laws,” and that failure to comply “may lead to legal and commercial consequences including the termination of contracts to which the Supplier is a party.”
- In other words, if a supplier refuses or fails an audit or is detected purchasing illegal product or supplying illegal product on a single shipment to anyone, they will lose not just a single shipment or a single customer, but the entire business of all the customers who require the control document.
- Hence, if enough customers – but not all – sign up for the control document, the financial implications are large and outweigh the benefits of operating any part of the business illegally.
- The control document comprises: 1) a legal agreement or letter of warranty (that includes the language in quotes above), 2) a list of the regulations requiring compliance, 3) audit procedures and guidance to auditors, and 4) penalty terms.
- SFP recommends that the audit process use a credible independent auditor and that the design follows fisheries/farm inspection and HACCP best practices to minimize costs while achieving a sufficient level of deterrence.
- The control document can be initiated by customers or by responsible producer groups. Responsible producer groups can then request that customers adopt the control document for all their sourcing, to ensure all producers comply equally with key regulations.

What about international legal concerns?

- Given World Trade Organization (WTO) regulations, each importer must act voluntarily and individually to require their suppliers to sign the letter of warranty and accept the control document audits and terms. Importers must not discuss side agreements or penalties for failing to adopt the control document. The control document could, however, be part of a voluntary certification or labelling program, and the label may be withheld from companies that do not adopt the control document.
- Sustainable Fisheries Partnership (SFP) can share the legal advice it has received, but recommends importers seek their own legal advice.

Where has the control document been successful?

Russian Barents Sea Cod: Too many boats

The Russian Barents Sea cod fishery is a prime example of the change that the adoption of a control document (i.e., supplier contracts to ensure raw materials are sourced only from legal catch with reliable third-party audits) can bring to a depleted or poorly managed fishery.

Before the control document:

- In 2005, illegal landings of 165,000 tonnes pushed total harvest 35 percent above quota.
- There were identifiable weaknesses in governance (monitoring, control surveillance, enforcement, loopholes in catch documentation) and poor post-harvest tracking (reefer vessels flying flags of convenience).
- There were 500 vessels fishing in the Barents Sea Cod fishing grounds.

Introduction of the control document:

- GOAL: The goal of the control document was to reduce fishing pressure and eliminate illegal and unreported landings.
- WHO: The control document was introduced and championed by AIPCE (EU Fish Processors and Traders Association).
- HOW: The two largest traders, at the request of eight European importers (who held roughly 80% of the market), refused to take any fish from boats that were not registered or could not prove chain of custody.

After the control document:

- The EU reported that levels of IUU dropped dramatically within 12 months of the adoption of control documents.
- Five years after adoption, the cod stock recovered to healthy and sustainable levels and the fishery obtained MSC certification.

Why it worked:

- This fishery eliminated IUU fishing because those who continued to fish illegally had nowhere to sell their fish and could not survive economically. Those who were complying with regulations welcomed the control document and were ultimately more profitable by eliminating those illegal players.

Gulf of California Mexican Shrimp: If he can do, it why can't I?

The Gulf of California shrimp fishery is a good example of the effectiveness of the control document when there are free-rider circumstances in a fishery. Prior to 2014, many of the boats illegally fished the fishery's no-take zones. A few fishermen were benefitting financially by fishing in the coastal nursery grounds before these shrimp could grow larger and enter the legal fishing grounds. The overall fishery was not acting at the maximum economic yield. However, if all the fishermen obeyed the law and stayed out of the nursery grounds, there would be greater economic benefits for everyone.

Before the control document:

- A few boats were profiting from fishing illegally. These vessels and producers were challenging the proper implementation of further improvements in the fishery and not complying with the local regulations.

Introduction of the control document:

- GOAL: The control document was introduced to ensure legal fishing. It also intended to eliminate free riders who were going around the law and benefitting at the expense of others.
- WHO: Mexican exporters introduced and championed the document.
- HOW: The control document auditing measures, audited by an independent third party, oversaw the vessels' operations to verify compliance against regulations related to authorized fishing grounds, fishing gear configuration, and captures and landings documentation. If a vessel were caught fishing inside the limits, using a non-authorized gear documentation or not properly reporting the captures and landings, it would lose business not only to one exporter, but to all buyers.

After the control document:

- After the introduction and enforcement of the control documents, the compliance with no-take zones improved: In 2012, 340 boats were fishing illegally within the shrimp nursery grounds; and in 2014, 12 boats were caught fishing illegally.

Why it worked:

- Once enforced, the control document eliminated the free riders that were slipping through the local regulations and ensured larger and more valuable product entered into the market. The fishermen also saw the benefit to themselves of having equal competition for the resource and also offering a more sustainable product for the US market.

What are current and future applications of the control document?

Indonesian Blue Swimming Crab: Quality over quantity

The Indonesian blue swimming crab (BSC) fishery is a good example of how stakeholders can introduce the control document to change fishing practices and ensure both better quality product and less destruction to the environment. This fishery traditionally has functioned by catching large quantities of crab, mostly using traps and crab gillnet and, to some extent, indiscriminate bottom trawls. By using this method of fishing, the fishermen can catch a large volume of crab easily (just by dragging the trawl all over, with only one person in a boat), albeit of a reduced quality. Blue swimming crab is not the main target of the bottom trawls. BSC is actually by-catch, with the percentage of total catch ranging from 4% to 12%. Most of the species caught by bottom trawl are shrimps, mussels, squid, and other fishes. The fishermen ultimately make more money by using bottom trawls, but at the cost of destruction to the fishing grounds and overall ecosystem. If, however, a more selective fishing method were used, such as traps, and if a minimum landing size were required, the fishermen could profit from processing and exporting better quality crab with the added advantage of more meat extracted from larger crabs.

Before the control document:

- The Indonesian blue swimming crab fishery uses non-selective fishing gears (such as crab gillnet with small mesh size) and indiscriminate fishing methods (bottom trawling) and supplies low-quality product into the market.

Introduction of the control document:

- GOAL: The control document aims to improve the quality of the exported crab product.
- WHO: The National Fisheries Institute (NFI) Crab Council – comprising US importers; Indonesian Blue Swimming Crab Processors Association (APRI) – comprising processors and exporters.
- HOW: Help the fishery stakeholders see the benefits of changing the fishing and purchasing methods and producing a higher-quality product for the US market.

After the control document (expected):

- The fishermen will benefit from receiving a better price for their better quality product. The processors will get more meat out of the larger crabs and reduce their efforts and costs. In addition, the environmental state of the overall fishery will improve and ensure a more sustainable and resilient fishery.

Thai Mixed Trawl Fishery: Creating a wall at the dock

The Thai mixed trawl fishery presents a multitude of challenges, both environmental and social. There are clear indicators that a control document intervention could provide some solutions. The mixed fishery provides fish for many products, including surimi, fishmeal, and fish sauce, as well as for human consumption. The fishery catches the fish and sea creatures using different methods of fishing, but primarily bottom trawl. Combined with an excess of fishing pressures, this creates a destructive environmental situation for the ecosystem and overall fishery health. Compounded with labor and ethical illegalities, the fishery is in need of more serious interventions.

Before the control document:

- Excess fishing pressure threatens the Thai fisheries.
- Some fishing and/or processing practices violating social and labor laws have been identified and reported in this fishery.

Introduction of the control document:

- GOAL: To a) reduce the number of vessels operating in the fishery by eliminating those vessels fishing illegally and b) control and enforce social compliance on registered, legal vessels.
- WHO: The enforcement must happen at the landing sites, but it will be up to the Thai industry associations in Thailand to verify compliance.
- HOW: a) Create a wall at the landing ports whereby no buyer is willing to accept “trash fish” from vessels unable to prove legality using existing paperwork and verified government records of legal fishing vessels. This must be enforced so that those boats fishing illegally will go out of business with nowhere to sell their catch. b) Ensure effective auditing against the Shrimp Task Force protocols and ask for social compliance and labor regulations at the landing ports. In both cases, the threat of repercussions has to be substantial enough for businesses to comply.

After the control document (expected):

- As in the Barents Sea cod example, the number of vessels fishing in the Thai fisheries will be reduced. Illegal boats will be forced out of business.
- For those vessels acting legally, benefits will include improved profit and better social standards, while volumes and product from the fishery will remain unaffected.
- Material turned into fishmeal will also have the potential of being used not just as traditional “trash fish” but also as off-cuts and by-product from processing higher-value and larger fish.
- In addition, with improved practices and better management, the fishery could work to rebuild, thus benefitting everyone.

Please contact SFP for the full letter of warranty, examples of audit guidance, and more information.