

**Frequently Asked Questions  
Illegal, Unreported and Unregulated  
(IUU) Fishing Regulation**

**Council Regulation (EC) No.  
1005/2008**

**31<sup>st</sup> July 2009**

[www.defra.gov.uk](http://www.defra.gov.uk)

# IUU REGULATION

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## IUU REGULATION

### Frequently Asked Questions

This document provides answers to some of the most common questions on how the new IUU regulation will be implemented. It also includes questions and answers that were posed to the European Commission during their regional seminars with third countries and their meetings with stakeholders. These questions and answers have been included as they will help UK operators better understand the requirements of the regulation.

The list of Frequently Asked Questions will be updated on a regular basis. Updates will be published on the Defra website at:

<http://www.defra.gov.uk/marine/fisheries/conservation/iuu-regulation.htm>

If you have any questions that you would like to see included in future updates to this document, please send them to [IUU@defra.gsi.gov.uk](mailto:IUU@defra.gsi.gov.uk)

### A. Scope of the Regulation

**Q1: What products are included in the regulation?**

A: All products listed in chapter 03, and tariff headings 1604 and 1605 of the Community Combined Nomenclature are included in the scope of the Regulation, except those products listed in Annex I of the Regulation, namely freshwater, farmed and ornamental fish, some molluscs (snails, oysters, scallops) and flours, meals and pellets of fish, fit for human consumption.

**Q2: Why are some products excluded?**

A: Certain fishery products have been excluded from the scope of the Regulation under Annex I since they are either already under specific measures such as products obtained from aquaculture, or products of minor importance from the perspective of conservation and management measures and trade to the EC.

**Q3: Will catches made in 2009 be covered by the regulation?**

A: No, the scope of the IUU Regulation will only cover marine catches made from 1 January 2010. This effectively means that some consignments will enter the EC in 2010 without a catch certificate since the products were caught in 2009. The European Commission is aware of the fact that raw materials used to process products, and the processed products themselves may be kept in storage for months before being traded to the EC.

**Q4: What about fishing vessels operating illegally without having any link or impact to the trade with the EC?**

A: The IUU Regulation only applies if there is a link with the EC either via trade or via the involvement of EC nationals. However, other IUU vessels will be included in the EC IUU vessel list where they have been identified by RFMOs, as provided for by Article 27 of the IUU Regulation.

**Q5: Is airfreight covered by the Regulation?**

A: Yes. Consignments shipped by airfreight, rail or road are covered by the Regulation. The deadlines for the submission of catch certificates will be set out in the implementing regulation. The deadline for airfreight is likely to be 4 hours.

**Q6: How can the various roles and responsibilities of the different countries involved be summarized?**

A: The role of **EU Member States** will be to carry out controls and verifications on imports and to communicate the outcome of these verifications to the flag and coastal States concerned.

The **Flag State** will always be responsible for the validation of the catch certificate. This applies equally to EU Member States, when they have to validate catch certificates for products stemming from its own vessels which are to be exported, if the receiving third country asks for a catch certificate.

The **market or processing State** will not have to carry out any validations or verifications of the catch certificate. However, it has to ensure the traceability of the products and endorse the statement at Annex IV of the regulation.

There are no specific obligations for **coastal States** under the IUU Regulation. However, if verifications in a Member State detect that a foreign vessel carrying out fishing activities in the EEZ of another country did not comply with the conservation and management measures of that country, information on these activities will be transmitted to both the flag and the coastal State. Both States then may decide to take further action according to national law.

## **B. Definitions**

**Q7: What is meant by a "consignment"?**

A: "Consignment" is defined in Article 2(23) of the regulation and refers to products either shipped simultaneously from one exporter to one consignee, or covered by a single transport document covering their shipment from the exporter to the consignee, irrespective of size, which could range from a single box up to several containers.

**Q8: What are "applicable" conservation and management measures?**

A: "Applicable" conservation and management measures are those that a country has adopted. They may consist of international, regional and/or national conservation and management measures.

## **C. Fishing vessels and inspections**

**Q9: How will port inspections be organised?**

A: Port inspections will be carried out by the Marine and Fisheries Agency in England, and the relevant fisheries authorities in Scotland, Wales and Northern Ireland. Inspections will be risk-based, and each Member State is required to undertake a minimum 5 percent inspection rate.

**Q10: Will a prior notification of 3 working days be required in all situations?**

A: No, the implementing rules will provide shorter deadlines for fresh products and fishery products transported by means other than shipping or fishing vessels.

**Q11: When will a third country vessel be granted entry to an EC port?**

A: A third country fishing vessel will be granted entry to an EC port if the information set out in Article 6 on prior notification is completed, and if the products are accompanied by a validated catch certificate.

## **D. The catch certificate scheme**

**Q12: As an importer, who will I need to ask to supply a catch certificate?**

A: You will need to ask your supplier (the exporter) for a validated catch certificate(s) to accompany the fishery products you are importing.

**Q13: What will happen to my goods if they arrive at a UK Border Inspection Post without a catch certificate?**

A: If your goods arrive at one of the Border Inspection Posts without a catch certificate then they will not be granted Customs clearance to enter the EU. It is the importers responsibility (or their agent) to ensure the correct documentation is present at the port of entry.

**Q14: Will there be any charges levied at the Port for checking these certificates and if so, how much?**

A: Yes. Charges will be levied by Port Health Authorities on a cost recovery basis. A charging regime has yet to be established. Further details will be issued in the autumn. We have estimated that charges will fall in the range of £15-£45 per consignment, as set out in the interim impact assessment which accompanies the Information Note.

**Q15: Who completes the catch certificate?**

A: The exporter needs to ensure that boxes 1-9 of the catch certificate are completed before it is transmitted to the competent authority for validation. Catch certificates are completed on a consignment-basis.

The validating authority should thereafter send the certificate back to the exporter before he transmits it to the EC importer.

Full details of how to complete a catch certificate will be included in the European Commission's guidance handbook to be published in the autumn.

**Q16: Can one catch certificate contain catches from several vessels?**

A: It depends. Normally the catch certificate only refers to one vessel per certificate.

However, if the consignment comes from several small vessels the simplified catch certificate should be used which can contain a list of several vessels. The simplified certificate does not require the same type of details on the vessel as the example at provided at Annex II to the regulation, and the vessel master is not required to sign the certificate.

Details of the simplified catch certificate will be provided in the implementing regulation which is to be published in the autumn. An exporter may use the simplified certificate for consignments stemming from several small vessels. The criteria for a small vessel will also be included in the implementing regulation.

**Q17: Should there be one separate catch certificate for each species?**

A: A catch certificate should be requested from the exporter on a consignment basis. This means that if more than one species is included in one consignment, one catch certificate can cover the different species.

**Q18: Who validates catch certificates?**

A: It will be the responsibility of the flag state of the catching vessel to validate the certificate. Third countries are required to notify the designated competent authorities responsible for validating catch certificates, to the European

Commission. The requirements for the notification of competent authorities are laid down in Annex III to the regulation.

Third countries can designate one or several competent authorities. However, the competent authority must be a public authority empowered to attest the veracity of the information contained in the catch certificate and carry out verifications on request from Member States, as provided in Article 17 of the Regulation.

Information on all countries who have notified their competent authority/ies for the purpose of validation of catch certificates will be published by the European Commission for the benefit of all stakeholders.

**Q19: Can a vessel which has carried out illegal activities, but which has been sanctioned, obtain a validated catch certificate for products stemming from these activities?**

A: Since those products would still stem from IUU activities, no catch certificate can be validated stating that the product has been obtained by respecting applicable conservation and management rules, even if the IUU activity has been sanctioned.

**Q20: Does the whole catch need to be included in the catch certificate, even if only part of it is exported to the EC?**

A: The catch certificate always refers to an export to the EC. The catch certificate is therefore not issued for the catch in total but only for the part to be exported.

**Q21: How can the master of a fishing vessel sign a catch certificate if he is on the high seas?**

A: A representative of the master can either request the validation of the catch certificate or the communication can be carried out by electronic means.

**Q22: How can the competent authority of the flag State validate a catch certificate if the catch is landed in another third country?**

A: In cases where the catches are not landed in a port of the flag state, either a representative of the master can request the validation of the catch certificate or the communication and transmission could be carried out by electronic means. The use of electronic means by third country authorities (provided for by Article 12 of the regulation) has to be notified to the Commission.

**Q23: Can the validated catch certificate be communicated electronically?**

A: Yes, the catch certificate may be communicated by electronic means (between the exporter and the importer) as set down in Article 12(4) of the regulation.

**Q24: Is the format of the catch certificate fixed?**

A: The layout of the catch certificate is not set in stone and it is up to the third country to decide if additional annexes or extension of boxes in the catch certificate are necessary, as long as the required information is included. Thus, the format of the certificate may be designed according to national needs. However, all catch certificates from a third country must be identical to a sample form submitted to the European Commission.

**Q25: Can the reference number of the health certificate be used as document number?**

A: No, they are separate documents, established to serve different purposes. It is up to each country to decide upon the structure of document numbers, but the Commission suggest using a common structure, which can be found at section 8.2(a) of the Commission's "technical note" on the operation of the catch certificate scheme. This can be found on the Commission's website, or by clicking the link on the IUU regulation page of the Defra website.

**Q26: Can a health certificate or the certificate of origin replace the catch certificate?**

A: No. The health certificate or the certificate of origin cannot be used as a catch certificate as their purpose is not to ensure compliance with conservation and management rules.

**Q27: What is a catch area?**

A: A catch area can either be the internal waters or EEZ of a country, a RFMO area, an FAO area or the name of the Sea.

**Q28: How can a flag State verify that the "catch area" noted in the catch certificate was the correct area where the catch was made?**

A: Each country will organise its own system of verification. However, if the flag State has evidence that the catch was made in an area other than noted in the catch certificate, it shall not give its validation.

**Q29: What level of liability is a competent authority under when validating a catch certificate?**

A: Competent authorities may validate that the catch was made in compliance with conservation and management measures and that, at the time of validation, it had no conflicting information suggesting otherwise.

If a Member State has evidence suggesting otherwise, the competent authority in the third country would be notified, but not held liable.

**Q30: How can an importer tell if a third country is eligible to export to the EC?**

A: Information on all countries that have notified their competent authority/ies for the purpose of validation will be published by the European Commission for the benefit of all stakeholders. In that way, authorities, processors, importers and exporters will know which countries can validate catch certificates.

**Q31: Is a vessel presumed to have carried out IUU activities if its catch did not have a catch certificate?**

A: Fishery products without a validated catch certificate will not be able to enter the EC. The absence of this document will mean that, either the Flag State authorities did not validate the certificate or, that the exporter did not apply for a validation.

## **E. Other catch certificates**

**Q32: Will measures adopted by RFMOs be taken into account in the IUU Regulation?**

A: The EC encourage the adoption of measures designed to combat IUU fishing in RFMOs but believe that regional and international efforts against IUU fishing is not strong enough since the phenomenon is still a growing problem.

The IUU Regulation will take into account some catch documentation schemes for adopted by RFMOs. The Commission will list the names of recognised certification schemes adopted by RFMOs in the implementing regulation.

## **F. Simplified catch certificate for small scale fisheries**

**Q33: What will the criteria for small vessels be?**

A: The profile of small scale fisheries varies from one country to another. In the absence of an international definition of small scale fisheries the Commission introduced criteria in its implementing rules to accommodate this type of fishery. The criteria will focus both on the capacity of the fishing vessel, its length, landing of the catches in the flag state and on the fact that one export consignment is formed from products supplied by several vessels meeting these criteria.

## **G. Processed products**

**Q34: Must Annex IV be completed if the flag State is the same as the processing State?**

A: No, Annex IV must only be completed for processing of catches imported from another third country. Processing of catches from the same country will be declared

in Annex II by using the boxes "species" and "product code".

**Q35: What if products from one flag State are processed in two different countries?**

A: In that case the authority in each country of processing must endorse a statement at annex IV. This means that a consignment will include two separate statements, and be accompanied by the catch certificate(s) when reaching the EC.

**Q36: How can a processing plant complete Annex IV if it processes products from several species, as is the case for surimi?**

A: In this case, all species used have to be mentioned in the statement in Annex IV.

**Q37: Who should endorse the statement at Annex IV?**

A: It must be the competent authority responsible for the monitoring of imported raw materials for processing and re-exportation.

**Q38: Is freezing of products regarded as processing?**

A: No. Freezing is not regarded as processing, but rather preservation. For freezing of products, Article 14(1)(b) of the regulation applies.

**Q39: What happens if a consignment is divided after importation to a processing country and sold to different processors?**

A: In that case the importer must provide copies of the original catch certificate to his buyers with additional information on the respective quantities sold as laid down in Article 14(1)(b) of the regulation.

**Q40: Will five consignments of fish which are mingled at processing required five catch certificates?**

A: Yes. A catch certificate must be attached to each catch exported. In case of mingled products several catch certificates must accompany the consignment in order to ensure traceability.

## **H. Inspection of catch certificates**

**Q41: How will Member States organise verifications of catch certificates on import?**

A: Once a catch certificate has been submitted it may be selected for verification by a competent Member State authority, on the basis of risk management, or at random. Verifications may include of examining the fishery products, the declaration data and authenticity of the documents, inspection of transport, containers and storage areas etc.

For the purpose of verification, the competent authorities of the Member States may request the assistance of the competent authorities of the flag State or of the third country when it has well founded doubt over the validity of the catch certificate or its compliance with conservation and management rules.

**Q42: Who pays for storage if a consignment is stopped pending verification?**

A: The importer will be responsible for storage costs.

**Q43: How can aquaculture and marine products be distinguished, in particular if they are the same species?**

A: The Commission have a list of the most important products stemming from aquaculture and will inform the authorities in EC Member States accordingly, to allow them to target their verifications.

## **I. Approved Economic Operators**

**Q44: Are there any provisions to keep the additional burdens of the scheme to a minimum?**

A: The regulation does provide for an 'Approved Economic Operator' scheme to be set up. The main benefits for importers that meet the required criteria are that catch certificates will not need to be presented at Border Inspection Posts. The certificates must be kept for a period of 3 years and be available for checking if requested at a later date. This would save the importer having to pay the Port Health Authorities charge for checking catch certificates at BIPs.

Further details about the Approved Economic Operator Scheme are provided in the Information Note. Details about the application process will be made available in the autumn.

## **J. IUU Vessel list**

**Q45: When establishing the EC IUU vessel list, will the Commission take into account IUU vessel lists established by RFMOs, NGOs or other regional or national bodies?**

A: The EC IUU vessel list will include vessels engaged in IUU fishing only if the competent flag State did not take appropriate measures to prevent these practices continuing. It will also automatically include the IUU vessels listed by RFMOs.

IUU vessel lists published by NGOs will not be included. Although a valuable source of information, they are not based upon facts established by the relevant competent authorities.

However, the Commission is interested in having information on vessels listed in any other IUU lists for the purpose of inspections and verifications. Such information could be communicated through the Community alert system.

**Q46: Will a fishing vessel taken off an IUU list adopted by an RFMO also be taken off the EC IUU vessel list?**

A: Yes, fishing vessels deleted from an IUU vessel list adopted by an RFMO will automatically be deleted from the EC IUU vessel list.

**Q47: Can UK vessels be listed in the EC IUU vessel list?**

A: Yes, the EC IUU list will include fishing vessels under any flag, including EC vessels.

**Q48: Can vessels other than fishing vessels be included on the EC IUU vessel list?**

A: Only vessels defined in Article 2(5) of the Regulation can be listed in the IUU vessel list. This is similar to IUU vessel lists adopted by RFMOs.

**Q49: Can all vessels belonging to a fleet be considered as IUU vessels if one of its fishing vessels was engaging in IUU activities?**

A: It would depend on the type of IUU activity and of the relevant RFMO measure, but generally not.

## **K. List of non-cooperating countries**

**Q50: How will the EC determine a non-cooperating country?**

A: The European Commission will identify third countries that it considers non-cooperating in the fight against IUU fishing, by failing to discharge its duties under international law as a flag, port, coastal or market State.

Before doing so, the Commission will notify the country concerned and provide it with an opportunity to respond to the allegation, or take appropriate measures to rectify the situation within an appropriate time frame.

A country may be removed from the list if it can demonstrate that the situation which warranted the listing has been rectified.

**Q51: How long will third countries be given to take appropriate measures in order to avoid being listed as non-cooperating country?**

A: Before listing a country as “non-cooperating” there will need to be extensive communication between the Commission and the third country concerned. During this period, specific difficulties can be identified, and the Commission can offer technical assistance to remedy the situation.

Listing a country as non-cooperating would be a last resort if a country continuously failed to cooperate and to improve the situation. The listing would need to be agreed by EU Fisheries Ministers.

## **L. Sanctions & EC nationals**

**Q52: What measures will be taken against EC nationals involved in IUU activities?**

A: This will be the responsibility of the EU Member State concerned depending on its national rules. For serious infringements as defined in the IUU Regulation the sanctions laid down in Articles 44 and 45 apply.

**Q53: What measures will be taken against EU vessels fishing in waters of third countries which have carried out IUU activities?**

A: The Fishing Authorisation Regulation which was adopted at the same day as the IUU Regulation complements the IUU Regulation in this respect. This Regulation applies to all EU vessels fishing in third countries' waters and imposes the obligation for those vessels to have a specific authorisation for their activities. In addition to the measures provided for by the IUU Regulation, more and stricter measures to be taken in cases of IUU activities are also laid down in the Control Regulation.

Moreover, the coastal State is free to take measures and sanctions according to its own national law.

**Q54: Can importers also be sanctioned for importing products obtained from IUU activities?**

A: Yes, all operators, including importers, can be sanctioned under the IUU Regulation.

## **M. Assistance for third countries**

**Q55: Will the European Commission provide assistance and capacity building to developing countries for the purpose of implementing the IUU Regulation?**

A: The Commission is committed to assist third countries in the implementation of the IUU Regulation, including through bilateral meetings and a series of regional seminars around the world.

Any specific needs regarding the implementation of the Regulation will have to be communicated in writing to the Commission which will evaluate each request.

More general capacity building may be provided through the Commission's international development policy.

Operational assistance is provided by several provisions of the IUU Regulation, such as the notifications on vessel inspections, the catch certification scheme and the Community Alert System. Member States will communicate the outcome of inspections and verifications to the flag and coastal state in order to provide them with information that will allow more targeted action and better use of their resources.

Similarly, the Community Alert System will provide useful information to third countries to better target control measures.

**Q56: What is the UK doing to support compliance by third countries?**

A: Given the importance of China to the UK processing sector, Defra led a joint Government/Industry delegation to China in February 2009 with the objective of helping Chinese authorities and processors better understand the requirements of the regulation. Discussions took place with national authorities in Beijing, and a two-day workshop was held in Qingdao where much of the processing industry is centred.

Defra also received a follow-up visit from officials and industry representatives from Shandong Province in July 2009, which focussed on the implementation of the IUU regulation.

A new fisheries programme was launched in Africa in spring 2009. The Partnership for African Fisheries (PAF), is funded by the UK Department for International Development, and will be run by NEPAD (New Partnership for Africa's Development) under the auspices of the African Union. One element of the programme will be to tackle IUU fishing, and support compliance with the EC regulation.

## **N. General**

**Q57: Is there any possibility of a delay to the date the regulation comes into force?**

A: No. The European Commission has stated that the regulation will come into force on 1 January 2010.

However, since the regulation will only apply to fish caught from 1 January 2010, fishery products stemming from catches obtained before this date, but imported after, do not need to be accompanied by a catch certificate. In practice therefore, the catch certificate scheme will be implemented progressively. It will apply first of all to imports of fresh products, and then progressively to all products.

**Q58: When will the Implementing Regulation and the Handbook be available?**

A: The implementing regulation is likely to be published in October. The Handbook will be published at the same time as the implementing regulation.

**Q59: What is meant by Illegal, Unreported and Unregulated (IUU) fishing?**

A: The only internationally agreed definition of "IUU fishing" is to be found in the FAO's IUU Action Plan. In line with this definition, the Commission considers that the scope of the EU policy to deter, prevent and eliminate IUU fishing should cover:

- behaviours infringing applicable rules on the management and conservation of fisheries resources, occurring in waters subject to or beyond the jurisdiction of a State;
- fishing activities carried out in a high seas area and subject to a Regional Fisheries Management Organisation (RFMO) by fishing vessels without flag or flying the flag of States not party to the RFMO and in a manner contravening the rules issued by this organisation; and
- fishing activities carried out in a high seas area not subject to any conservation and management measures in a manner inconsistent with State responsibilities for the conservation of fisheries resources under international law.

The policy of the EU against IUU fishing shall therefore encompass fishing activities occurring within EU waters as well as beyond those waters. Obviously, this policy

should be geared towards deterring and punishing the most damaging infringements and not result in a uniform and burdensome approach which attempts to cover every possible minor breach of fisheries laws.

**Q60: Why is IUU fishing a threat to sustainable fisheries?**

A: By definition, IUU fishing means that catches are either misreported, or not reported at all, to the relevant public authorities. IUU fishing is thus a major contributor to over fishing. Some forms of IUU activity specifically target juveniles, which would otherwise be protected by rules on minimum sizes, or are carried out during periods or in areas which are normally closed, thus jeopardizing the renewal of the fish stocks concerned. When stocks are already outside safe biological limits, IUU practices can act as the trigger for further, dramatic consequences. A good example of this is the case of bluefin tuna in the Mediterranean, where the IUU catch has been estimated to be running at such a high level that it could soon bring the stock to the brink of extinction if allowed to proceed unchecked.

Department for Environment, Food and Rural Affairs  
Nobel House  
17 Smith Square  
London SW1P 3JR  
Telephone 020 7238 6000  
Website: [www.defra.gov.uk](http://www.defra.gov.uk)

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Published by the Department for Environment, Food and Rural Affairs