

Information Note

Illegal, Unreported and Unregulated (IUU) Fishing Regulation

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www.defra.gov.uk

IUU REGULATION

Information Note

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Introduction

Purpose of this Information Note

1. A new EU regulation to combat Illegal, Unreported and Unregulated (IUU) fishing comes into force on 1 January 2010. This information note sets out the requirements of the regulation and the approach being taken in the United Kingdom to implement it. The aim of this information note is therefore to help ensure that there is clarity on what the new rules are and to assist UK industry in complying with them.
2. This information note is only a guide, and the detailed legal requirements are contained in the regulation itself, which can be found on the European Commission's website or by clicking on the link at on the IUU Regulation page of the Defra website:

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

3. The note is accompanied by an interim Impact Assessment that provides an estimate of possible costs associated with the introduction of this regulation in the UK and its potential impact on those involved with the importation of fish and fishery products from outside the EU.
4. The EU Council Regulation (No. 1005/2008) will be supplemented by a European Commission implementing regulation that will provide more detail on how some of the requirements will need to be implemented. The final version of the implementing regulation is still to be agreed by Member States and published by the European Commission. As a result, this note will not be interpreting these elements in great detail at this stage. It will however provide an overview of the key points contained in the implementing regulation. Further details can be found at **Annex 1** to this note.
5. The information note and accompanying online material will be updated in the autumn once the implementing regulation has been agreed. The impact assessment will also be updated before the regulation comes into force, notably to include data for those areas that require further analysis and investigation.

Why do we need this regulation?

6. Illegal, Unreported and Unregulated (IUU) fishing remains one of the biggest global threats to the long-term sustainability of fish stocks. A recent UK-

funded study estimated that IUU fishing costs between \$10 billion, and \$24 billion, across the world each year – equivalent to around 20% of the worldwide reported value of catches.

7. The EU is the largest importer of fisheries products in the world, and therefore a major target for IUU operators. It has been estimated that the Community imports around €1.1 billion of illegal fish products each year.
8. There has been consensus within the international community over a number of years that strong action against IUU fishing needs to be taken. This has led to agreement on a number of measures, including the FAO International Plan of Action in 2001, annual Resolutions by the General Assembly of the United Nations on sustainable fisheries, and the 2005 Rome Declaration on IUU fishing at the FAO Ministerial Meeting on Fisheries.
9. The European Community adopted its own Plan of Action against IUU fishing in 2002 as part of the Common Fisheries Policy. In addition, the UK has made further commitments to combating IUU fishing through the High Seas Task Force on IUU fishing, chaired by the UK Fisheries Minister.
10. However, despite this concerted international pressure, the problem of IUU fishing still persists. The EU has therefore introduced a new regulation to prevent, deter and eliminate the import of IUU fishery products into the Community, which is due to come into force on 1 January 2010.
11. The Regulation will create new requirements on fish and fisheries products entering the EU market from third countries. Catch certificates, to show that fish are caught legally, must be issued by the flag state of the catching vessel. These documents must accompany the fishery product throughout the supply chain, and will be required on entry into the EU.
12. A full interpretation of the individual requirements of the regulation is set out in the following pages.

The IUU Regulation: What will the new rules will mean for you?

A. Scope of the Regulation

13. The regulation applies to all IUU fishing activities in any waters where they are connected to the European Community through trade flows, the flag of the fishing vessels, or the nationality of the operators.
14. It seeks to prevent, deter and eliminate all trade of fishery products into the Community which have been obtained from IUU fishing, and the involvement of Community nationals in IUU activities wherever they occur.
15. The regulation applies equally to fish landed into the Community from third country vessels and to fishery products imported by container or airfreight.

B. Third Country Fishing Vessels: Landings & Transhipments

Prior notification and declaration of landings and transhipments

16. Third country fishing vessels will only be able to access ports, port services, and undertake landings at designated ports in the UK.
17. Masters of third country fishing vessels will be required to notify UK authorities of the port they wish to use at least three working days before arrival, along with details of the vessel, fishing authorisation and the catch certificates for any fishery products they are carrying.
18. This notification period is likely to be reduced to four hours for landings of fresh fish. Full details will be contained in the implementing regulation to be published in the autumn.

19. Third country fishing vessels will also need to submit a declaration prior to landing, covering the quantity of fishery products by species and date and area of catch.
20. The information to be contained in both pre-landing notification and declaration will be set out in the implementing regulations.
21. Notifications and declarations will need to be made to the relevant UK authority. In England this will be the Marine and Fisheries Agency. In Scotland, Wales and Northern Ireland it will be the relevant fisheries authorities in those countries.

Transhipments

22. All transhipments between third country vessels or between these vessels and EU fishing vessels will be prohibited in Community waters. Transhipments may only take place in designated ports.
23. Outside Community waters, EU fishing vessels may only tranship at sea from third country vessels if those vessels are registered as carrier vessels under a Regional Fisheries management Organisation (RFMO).

Inspections of landings and transhipments

24. Landings from third country fishing vessels will be subject to inspections. In England such inspections will be carried out by the Marine and Fisheries Agency. In Scotland, Wales and Northern Ireland inspections will be undertaken by the relevant fisheries authorities in those countries.
25. Inspections will be carried out on at least 5% of landings and transhipments each year. However, vessels will be systematically inspected in cases of suspected IUU activity or where illegal operations have been identified, including under the Community IUU Alert System (see paragraph 56).

Refusal of landings and transhipments

26. If an inspection shows evidence that a vessel has been engaged in IUU activity it will not be authorised to land or tranship its catch in UK ports. If the

suspected IUU activity took place on the high seas or in the waters of a coastal state, UK authorities may also be able to sanction the vessels.

27. Fishing vessels included in the Community IUU vessel list will not be authorised to enter UK ports.

C. Imports of fishery products from outside the EU

28. The vast majority of fishery products imported into the UK from outside the Community arrive via container ports or airports. The IUU regulation also applies to these imports.

Catch certificates

29. All imported fishery products will need to be accompanied by a catch certificate (there is an example at Annex II of the IUU Regulation). Catch certificates will need to be validated by the relevant competent authorities of the flag state of the catching vessel, certifying that the catches have been made legally. In effect, this means that the catches have been taken in accordance with laws, regulations and international fisheries conservation and management measures applicable to that vessel.
30. Imports that are not accompanied by a validated catch certificate will be refused entry to the UK.

Other Catch Certificates

31. In addition to the catch certificate at Annex II of the Regulation, the Commission will specify those Regional Fisheries Management Organisation (RFMO) catch documentation schemes that will be acceptable under this regulation. A list of these RFMO catch certificates, which can be used as an alternative to the IUU catch certificate, will be included in the implementing regulations to be published in the autumn.

Small Scale Fisheries

32. The system of individual catch certificates will be particularly onerous for fish caught by small scale artisanal fisheries, often located in developing countries. As a result a simplified catch certificate will be made available for exports from certain third country fishing vessels. The details of the simplified certificate, including the criteria under which it can be used by exporters will be included in the implementing regulations.

Approved third countries

33. The European Commission has asked all third countries to provide a formal notification (details at Annex III of the Regulation) certifying that:

- a. The third country has its own national arrangements in place to control and enforce fisheries laws, regulations and conservation and management measures; and
- b. Its public authorities are able to validate the information contained in catch certificates and carry out verifications as required.

34. Catch certificates from third countries which do not provide this notification, or whose notification is deemed insufficient by the European Commission, will not be valid on entry to the UK, and the import will be refused.

35. The Commission will publish on its website a list of those countries from which it has received a notification, together with details of their competent authorities later this year. It will therefore be important for UK importers to check with their suppliers in third countries that the appropriate authorities have made, or intend to make, this notification to the Commission before 1 January 2010.

Catches made prior to 1 January 2010

36. The regulation applies only to catches made from 1 January 2010. Therefore fish caught prior to 2010, but imported after 1 January will **not** require catch certificates. However, if it is suspected that IUU fish is entering the UK in this way, UK authorities may ask importers to provide documentary evidence to prove that the catch was made prior to 1 January 2010.

Excluded products

37. The catch certification scheme will apply to all unprocessed or processed catches, except for aquaculture products obtained from fry or larvae, freshwater fish, ornamental fish, certain molluscs (snails, oysters, scallops) and flours, meals and pellets of fish fit for human consumption. The list of excluded products is at Annex I of the regulation. This list is likely to be updated, to provide specific customs codes of excluded products, in the implementing regulation published this autumn.

D. What documents will be required?

Imports routed through or processed in another third country

38. The international supply chain for fisheries products is complex. In many cases fish caught by a vessel of one third country may be landed to or routed through another third country prior to arrival in the EU. In the case of processed fish, the processing may be undertaken in a third country using raw material caught by vessels of a number of different nationalities.

39. In such cases the importer, or importer's agent, will be required to provide additional documents to UK authorities. These are set out below:

40. Imports constituting one single consignment which is transported, in the same form, through a third country different to the flag state of the catching vessel (i.e. where no further processing has taken place):

- Catch certificate
- Evidence to show that the products did not undergo any operations other than unloading, reloading, or preservation. This evidence can be provided as:
 - The single transport document, such as bill of lading or airway bill, covering the passage of the product from the territory of the flag state through a third country; or

- A document issued by the competent authorities of the third country:
 - Giving an exact description of the fishery products, the dates of unloading and reloading and where applicable the names of the ships, or other means of transport used, and
 - Indicating the conditions under which the fishery products remained in that third country.

41. Imports constituting one single consignment which have been processed in a third country other than the flag state of the catching vessel:

- The original catch certificate(s) – where the totality of the catches have been used in processing, or
- A copy of the catch certificate(s) – where only part of the catch has been used in processing.
- In addition the processing plant must complete the statement at Annex IV of the regulation and have this endorsed by the relevant competent authorities in that third country.

Split catches and products made from more than one catch

42. In some cases catches covered by only one catch certificate may be split during processing. In such cases we would expect a copy of the original catch certificate to be presented on import.

43. Similarly if a number of different catches have been used to make up the products in a consignment, we would expect all relevant catch certificates to accompany the imported consignment.

Who will check the import documents?

44. It is currently expected that Port Health Authorities will carry out checks on imports of fishery products at Border Inspection Posts, in the same way that checks are carried out on veterinary health certificates. Importers, or their

agents, will need to submit the catch certificate and all other relevant documentation to the relevant Port Health Authority Office at least three working days before the estimated time of arrival. This deadline will be shortened to 4 hours for airfreight; details will be included in the implementing regulation.

45. Once the catch certificate has been checked and approved by the Port Health Authority, and if all other conditions of import have been met, the consignment will be passed to HM Revenue and Customs for clearance.

Charges

46. As with checks on veterinary health certificates, Port Health Authorities will charge for checking IUU catch certificates on a cost-recovery basis. The level of these charges have yet to be set, but the estimate we have included in the interim Impact Assessment is within the range of £15-£45 per consignment. This is based on current Port Health charges for checking similar certification requirements.

E. Exports and Re-exports of fish

Exports from the UK

47. In some cases, catch certificates will be required to accompany exports of fishery products from the UK, specifically:

- ***Where EU fishery products are exported to a third country e.g. for processing, and such products subsequently re-enter the EU;***

In the case of fish caught by UK vessels, the exporter will need to complete a UK catch certificate and apply to the relevant fisheries authorities to validate the certificate. On current plans these authorities will be the Marine and Fisheries Agency in England, and the fisheries authorities in Scotland, Wales and Northern Ireland. Full details of where to obtain UK catch certificates and where to submit the certificate for validation will be provided in the autumn.

In the case of fish caught by other EU vessels, it will be the responsibility of the flag state to validate catch certificates.

- ***Where a third country requires an EU catch certificate to accompany imports of fishery products to that country;***

It is possible that some third countries will demand catch certificates for exports from the EU. We do not yet know which third countries will specify this as an import condition. We expect the European Commission to provide this information in the autumn.

- ***Where a UK fishing vessel lands fish to a third country, and this fish is subsequently brought in to the EU.***

A T2M form is used to prove the Community status of fish products caught by Community fishing vessels and may be required when fish landed to a third country is then brought into the UK. (Details of how to obtain and complete the T2M form can be found in the Transit Manual Supplement which is available from the HMRC website.) If a T2M form is not submitted on entry to the EU, a UK catch certificate will be required.

Re-exports from the UK

48. For re-exports of fish which have previously been imported with a catch certificate (i.e. imported from a third country), the re-exporter will need to complete the re-export section of the catch certificate (or copy of it) and have this validated by the UK authorities. We will set out which authority will carry out this function in the UK in the autumn.

49. If they are not the original importers of the product, re-exporters will need to ensure they obtain the original catch certificate so that the re-export section can be completed.

50. Exporters and re-exporters are requested to complete the details at Annex 2 to this note. This will enable us to contact you when further details are available.

F. Approved Economic Operators

51. In order to simplify the import procedure, the regulation allows for a system of Approved Economic Operators to be set up. Importers who have been granted this status will not need to provide the catch certificates on import. Instead they will need to advise Port Health Authorities of arrival of the products and keep the catch certificates and accompanying documentation for checking by UK authorities as required.

52. Applicants will need to meet a number of criteria in order to qualify for this status. These are:

- (a) The importer must be established in the UK.
- (b) The importer must have a sufficient number and volume of import operations. A minimum threshold will be set by the UK authorities as part of the application process.
- (c) The importer must be able to demonstrate compliance with fisheries conservation and management measures.
- (d) The importer must be able to demonstrate it has a satisfactory system of traceability that will enable checks and verifications to be carried out.
- (e) The importer must have facilities which enable checks and verifications to be carried out.
- (f) The importer must have practical standards of competence or professional qualifications in respect of importing and dealing with fishery products; and
- (g) The importer must have proven financial solvency

53. In addition, it is likely that the implementing regulation will also require applicants to obtain an Authorised Economic Operator (AEO) certificate from HM Revenue & Customs.

54. This requirement, and other detailed rules for the operation of the Approved Economic Operator scheme cannot be confirmed until the implementing regulation is finalised and published in the autumn. However, potential applicants may wish to find out more about the process for obtaining an AEO certificate. Further information can be found on the HMRC website or by clicking on the link to Authorised Economic Operators on the IUU Regulation page of the Defra website:

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

55. Potential applicants are also requested to complete the details at Annex 3 to this note. This will enable us to contact you when further details about the Approved Economic Operator scheme are available.

G. Non-compliance and sanctions

Community Alert System

56. The European Commission will publish an alert notice on its website and in its Official Journal where there are well founded doubts over the compliance of particular fishing vessels or fishery products from third countries. UK authorities will be required to check past, current and future imports, and where necessary prevent their entry, where they are subject to these alerts.

Community IUU vessel list

57. The Commission will establish an IUU vessel list. This will include the vessel lists adopted by RFMOs and EU vessels. Any vessels on this list will be subject to restrictive measures, including withdrawal of fishing authorisations, a ban on trade of products from these vessels with the Community, and prohibition to enter an EU port (except in cases of force majeure or distress).

58. Prior to listing a vessel, the Commission will make an official request to the flag state for an enquiry into the alleged IUU allegations. If the flag state fails to take appropriate measures in response to that request, the vessel will be listed on the Community vessel list.

59. Vessels will be removed from the list if they have been appropriately sanctioned by the flag state, or when the owner/operator can prove that at least two years have elapsed since the listing, during which no further reports of IUU activities have been reported, and there are no financial links with other operators presumed to carry out IUU activity.

Non-Cooperating third countries

60. The Commission will identify third countries that do not cooperate in the fight against IUU fishing, i.e. if they fail to discharge their duties under international law as flag, coastal or port state. The Commission will notify the third country concerned with supporting evidence. If no appropriate measures are taken by that country to improve the situation, the European Council of Ministers may list the country as a non-cooperating third country. This list will be published on the Commission's website and in the Official Journal.
61. Any country on this list will be prohibited to trade any fisheries products (or where appropriate limited to a specific stock or species) directly or indirectly with the Community. Joint fishing operations between vessels flagged to these countries and Community vessels will be prohibited. Sale of vessels from or to Community operators will also be prohibited. The Commission may also propose measures to annul any current bilateral fisheries agreements or Fishery Partnership Agreements and will not enter into any negotiations to create new agreements.
62. These measures will only be lifted if the third country can prove that the situation which warranted their inclusion on the list has been rectified.

UK Nationals

63. It will be prohibited for all Community nationals to engage in or support, directly or indirectly, IUU activities under any flag. In particular nationals of a member state will not be allowed to sell or export any fishing vessel, or receive public aid, if they are linked to vessels on the Community IUU vessel list.

Immediate enforcement measures and sanctions

64. IUU fishing can only be prevented, deterred and eliminated if States can effectively track down IUU operators. The Regulation therefore consists of a system of effective, proportionate and dissuasive sanctions for any serious infringements. This is to ensure that operators engaging in or supporting IUU fishing, including by trading, can be deprived from the benefits of these activities and be discouraged from participating in such activities.

65. Member States will therefore impose a maximum sanction of at least five times the value of the fishery products obtained by committing the serious infringement, and 8 times the value of the fishery products in case of a repeated infringement within a 5 year period, for any serious infringement. In addition criminal sanctions can be applied.

H. What you need to do now:

66. To ensure the continuity in supply in legitimately caught fishery products, you may wish to contact your third country suppliers to ensure they are aware of these new rules.

67. Where necessary, ask your suppliers to contact the relevant authorities in the third country concerned to ensure they will be in a position to validate catch certificates and/or (for processed products) the statement at Annex IV, from 1 January 2010. Third country authorities will also need to provide the notification to the European Commission as set out in Annex III to the regulation.

68. If you think you may need to complete a UK catch certificate or the re-export section of a catch certificate, please provide the details at **Annex 2** and e-mail them to IUU@defra.gsi.gov.uk . It is important that we have this information in order to gauge the likely volume of such requests, and to ensure that we can contact you when further details of UK catch certificates are available.

69. If you are interested in applying for Approved Economic Operator status and think you may be able to meet the application criteria please provide the details at **Annex 3** and e-mail them to IUU@defra.gsi.gov.uk . We will contact you when further details are available.

I. Next Steps

70. This Information Note is the first stage in keeping you informed with how the Regulation will be implemented in the UK.

71. The European Commission will be publishing its detailed implementing regulation in the autumn (we expect this to be published in October). Alongside the implementing regulation the Commission will publish a

guidance “handbook” which will provide practical information on the operation of the new rules for importers, exporters, processors, vessel operators and authorities in Member States and third countries.

72. We will publish a further Information Note in October which will set out the key elements of the implementing rules and the handbook.

73. We also intend to run a number of seminars around the country in October/November to explain the details of the new system. Further details of the seminars will be made available in September.

Timeline

Date	Activity
October 2009	Publication of Commission’s Implementing Regulations
October 2009	Publication of Commission’s guidance “handbook”
October/November 2009	UK seminars on implementation of the new rules
1 January 2010	IUU Regulation comes into force

J. Frequently Asked Questions

74. A separate document containing frequently asked questions is available on the IUU Regulation page of the Defra website. We will update this document on a regular basis with answers to the most common questions.

K. Contact us

75. If you have any further questions about this information note please e-mail IUU@defra.gsi.gov.uk .

Annex 1 - Implementing Regulation

1. The implementing regulation will contain more detailed information on certain requirements of the regulation. The main elements are listed below with a short description of the information they will contain.
2. We will issue a full interpretation of these implementing rules in a second Information Note in October, once the regulation has been published.

a. Landings, Transshipments and Inspections of third country fishing vessels

Details of prior notification period for landings of fresh fish. Details of the forms required for submitting prior notification and pre-landing and pre-transshipment declarations.

Details of risk criteria to be used in undertaking inspections of third country vessels.

b. Catch certificate for small scale fisheries

Details and example of a simplified catch certificate for catches made by small scale fishing vessels, including criteria the vessels must meet.

c. Regional Fisheries Management Organisation (RFMO) catch certificate schemes

Details of existing RFMO catch documentation schemes which will be recognised as complying with the requirements of the regulation.

d. Deadline for submission of catch certificates for imported consignments

Details of shorter deadlines to submit catch certificates for imported consignments transported by air, road and rail.

e. Approved Economic Operators

Details on the criteria to be satisfied if AEO status is to be granted, and how the system is to be operated.

f. Verifications of catch certificates

Details of community risk criteria to be used in targeting checks and verifications of catch certificates to ensure that the provisions of the regulation are complied with.

g. Administrative cooperation with third countries

New administrative arrangements with third countries in establishing, validating or submitting catch certificates by electronic means will be notified to Member States within 15 working days of being established. The Commission will publish the details on their website and the implementing regulation will be updated accordingly.

h. Sightings

Guidance will be supplied on the information that will be most useful when reporting sightings of IUU activity. A template for notifying this information will be included.

i. Mutual Assistance

Guidance will be given on the conditions under which Member States shall cooperate with each other, third countries and the Commission in applying the regulation.

j. Excluded Products

Details of amendments to the list of excluded products in Annex I of Regulation 1005/2008, including specific customs codes.

Annex 2 - Details of export and re-export operations

If you think you may need to complete a UK catch certificate or the re-export section of a catch certificate, please provide the details below and e-mail them to IUU@defra.gsi.gov.uk.

It is important that we have this information in order to gauge the likely volume of such requests, and to ensure that we can contact you when further details of UK catch certificates are available. All information will be held in confidence.

Contact Name

Business Name

Address

e-mail

1. **Approximate number of consignments of UK caught fishery products exported to third countries each year**
 - a. **Approximate number of UK catches included in each consignment**
2. **Approximate number of consignments of UK caught fishery products exported to third countries and subsequently re-imported to the EU each year**
 - a. **Approximate number of UK catches included in each consignment**
3. **Approximate number of re-exports to third countries (i.e. exports of fishery products that have previously imported from outside the EU)**

Annex 3 – Approved Economic Operators

If you are interested in applying for Approved Economic Operator status and think you may be able to meet the application criteria, please provide the details below e-mail them to IUU@defra.gsi.gov.uk . We will contact you when further details about the application process are available. All information will be held in confidence.

Contact Name

Business Name

Address

e-mail

- 1. Approximate number of imports of fishery products from third countries each year.**
- 2. Approximate volume (tonnes) of imports of fishery products from third countries each year**

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

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Area 2D
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17 Smith Square
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Tel: 0207 238 5781

Email: iuu@defra.gsi.gov.uk

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