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Handbook

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

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Handbook

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

1. INTRODUCTION

This is the first edition of DG Maritime and Fisheries (hereinafter DG MARE) Handbook on the practical application of Council Regulation (EC) No. 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (hereafter, the IUU Regulation)¹.

This Handbook aims only to provide technical advice to administrations and operators and to answer the most frequent questions. It gives a general overview on the content of all chapters of the IUU Regulation and deals with specific questions on the catch certification scheme. For this purpose section 5 of the handbook is composed of several sub-sections where each handbook user can find the most important information for his/her specific category. The wording used in this handbook should be understood in accordance with the definitions in Article 2 of the IUU Regulation (example: fishing vessel). To reach an easy understanding, a simplified and less legal language is used and references to the legal texts are limited to a minimum.

However, the handbook does NOT replace or add anything to the provisions of Council Regulation (EC) No. 1005/2008 and Commission Regulation (EC) No. 1010/2009 of 22 October 2009 laying down detailed implementing rules², which constitute the legal base to be applied.

The content of this document may be freely reproduced provided that the source is adequately recorded: European Commission, DG Maritime Affairs and Fisheries, Brussels, Belgium (2009), Handbook on the practical application of Council Regulation (EC) No. 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (the IUU Regulation).

How to use this handbook

The handbook is not intended to be necessarily read sequentially. The sections are independent, so you can go directly to whichever topic of your concern. It was for that reason intentional to have some overlaps or duplications of questions and explanations. Sections 3 to 13, which refer to the implementation of the IUU Regulation, include the questions already raised and the answers provided.

An electronic version of this handbook and all relevant Regulations and documents are available in pdf format on the European Commission's website at:

¹ OJ L286, 29.10.2008, p.1

² OJ L280, 27.10.2009, p.5

<http://ec.europa.eu/fisheries/iuu>

2. GENERAL BACKGROUND INFORMATION

IUU fishing – a global problem

It is estimated that IUU practises amounts to approximately 10 billion Euros every year worldwide representing 19% of the worldwide reported value of catches³ IUU fishing has both disastrous worldwide environmental and socio-economic impacts. Developing countries pay a particular high price to this scourge due to lack of resources to control its waters. Many of its costal communities are also solely dependant on fisheries for their livelihood. IUU fishing also constitutes one of the most serious threats to the sustainable exploitation of living aquatic resources and marine biodiversity, and damages the marine environment by overfishing and irresponsible fishing practices and techniques.

The depletion of fish stocks and future stock growth reduces the size and quality of catches which in turn contributes to lower profitability and eventually job losses, affecting not only the fishing and processing sector but also related industries.

IUU fishing also contributes to unfair competition between those fishermen and operators abiding by the rules, and those who do not.

IUU fishing and the European Community

Overall figures show that IUU fishing practices amount to approximately 10 billion Euros a year worldwide, making IUU fishing the second largest producer of fishery products in the world. The Community is a valuable target for IUU operators since it is the largest importer of fishery products in the world and one of the main producers and exporters worldwide. It also has many trading partners on all continents on both import and export side. In 2007, the Community imported nearly 16 billion Euros of fisheries products. Imports derived from IUU catches have been conservatively estimated at 1.1 billion Euros in 2005. Processed products account for roughly half of total Community imports of fishery products. The high demand for high-value and/or processed products exposes the Community to a potentially attractive market for IUU operators as, due to the lack of control mechanisms based on traceability and identification of the fishing vessels, IUU catches can be easily laundered, including through processing.

The legal framework

The IUU Regulation is the outcome of a long row of activities by the European Commission in the fight against IUU fishing. The main thrust of its policy stems from the European Commission's 2002 IUU Action Plan, directly inspired by the FAO International Plan of Action adopted in 2001 to prevent, deter and eliminate IUU fishing⁴. The proposal for the

³ Oceanic development study 2007,
http://ec.europa.eu/fisheries/publications/studies_reports_en.htm

⁴ <http://www.fao.org/DOCREP/003/y1224e/y1224e00.htm>

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IUU Regulation presented by the European Commission together with a Communication in October 2007 was based on the contributions and results of a public consultation launched in January 2007. On this proposal, which was highly appreciated and supported by the European Parliament and the European Economic and Social Committee, unanimous political agreement was reached by the European Council of Fisheries Ministers on 24 June 2008, which formally adopted the IUU Regulation on 29 September 2008. The Regulation will enter into force on 1 January 2010.

As foreseen in the IUU Regulation, the European Commission has adopted an Implementing Regulation (Commission Regulation (EC) No. 1010/2009 of 22 October 2009) laying down technical details in the following areas:

- Prior notification of landings, transshipments and consignments (Articles 1, 2);
- Landing and transshipment declarations (Article 3);
- Benchmark criteria for port inspections (Articles 4, 5);
- Simplified catch certification scheme for fishery products with specific characteristics (catches obtained by small fishing vessels, Article 6);
- List of recognised catch documentation schemes in Regional Fisheries Management Organisations (Article 7);
- Deadlines for the submission of catch certificates (Article 8);
- Approved economic operators (Articles 9-30);
- Risk management criteria for verifications related to catch certificates (Articles 31, 32);
- Administrative cooperation with third countries concerning catch certificates (Article 33);
- Sighting reports (Article 34);
- Mutual assistance (Articles 35 – 52);
- Amendments to the list of excluded products (Article 53).

IUU Regulation and the Community control system

The IUU Regulation is one of the three pillars of the new control system for fisheries in the European Community. The second pillar is Council Regulation (EC) No. 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third-country vessels to Community waters⁵. The third pillar concerns control of compliance with the Common Fisheries Policy rules by EC vessels and by third country vessels fishing in Community waters. For this purpose, the European Commission adopted a proposal for a Council Regulation establishing a Community control system ensuring compliance with the rules of the Common Fisheries Policy on 14 November 2008, which shall enter into force at the same time as the IUU Regulation, on 1 January 2010.

Together with the Regulation on fishing authorisations, the substantial reform of the current control system of the Common Fisheries Policy will complement the IUU Regulation to ensure no discrimination between Community and third country fisheries.

⁵ OJ L286, 29.10.2008, p. 33

Contacts with third countries⁶ and stakeholders

In operational terms it is anticipated that the IUU Regulation will apply to 4.500.000 tons of imported fishery products and to 1.200.000 tons of exported products.

Since the IUU Regulation was adopted in 2008, contacts with all third countries have taken place to advise them on this new instrument, as a continuation to the information actions already undertaken immediately after the adoption of the European Commission's Proposal. Several seminars at regional levels and bilateral meetings have been organised to provide detailed information on the Regulation and answer questions on its future implementation. Where requested by third countries' authorities, sector representatives also participated in these meetings and seminars.

A detailed information kit in three languages has also been distributed to all countries prior to the publication of the IUU Regulation.

In addition, the Regulation has been presented and discussed at numerous international fora (ASEAN, ASEAN-SEAFDEC, ACP, CTA, FAO, APEC etc).

In order to inform EC and third country stakeholders directly on the content of the Regulation, presentations were given by the European Commission during the Brussels Seafood Fair in April 2009. In addition, a seminar was held in May 2009 in Brussels to complete the information already provided to the EC stakeholder consultative bodies.

The related information is available on the website of DG MARE under

<http://ec.europa.eu/fisheries/iuu>

3. GENERAL PRINCIPLES AND SCOPE OF THE IUU REGULATION

The IUU Regulation is a transparent and non discriminatory instrument applying to all fishing vessels, under any flag, which seeks to prevent, deter and eliminate IUU fishing, in all maritime waters, in as much as derived products are traded with the Community or Community nationals are involved in IUU fishing.

In order to ensure that no products derived from IUU fishing appear on the Community market or on markets supplied from the Community, the Regulation seeks to ensure full traceability of all marine fishery products traded with the Community, by means of a catch certification scheme. This scheme is an essential part of the IUU Regulation which will also improve and facilitate the control and compliance with conservation and management rules, in cooperation with third countries. The catch certification scheme may also apply to catches from Community vessels which are exported, if the country of final destination requires a catch certificate.

In this respect the IUU Regulation is based on the responsibility and commitments of third countries. It is funded on objective criteria, namely the applicable national and/or international conservation and management measures **and does not introduce any new conservation or management measures**. Moreover, it provides for the possibility to adapt the general requirements to take into account specific situations (e.g. for artisanal fisheries).

The IUU Regulation also comprises provisions on port state control for third country fishing vessels⁷, the identification of IUU EC or third country vessels, non cooperating third

⁶ "third countries" means all countries which are not an EU Member State

countries and EC nationals involved in IUU fishing under any flag. The provisions are complemented by a mutual assistance system to facilitate exchange of information between the authorities in third countries, EU Member States and the European Commission and a Community Alert System, which is specifically designed to focus verification activities towards situations at risk.

In order to ensure effective enforcement, the Regulation also includes a harmonised system of proportionate and dissuasive sanctions for serious infringements for legal and natural persons.

The EU has notified the IUU Regulation to the WTO (reference: WT/L/747 of 10 February 2009). It is stated that the implementation of its provisions, including its catch certificate, will not represent a trade barrier; on the contrary, its purpose will be to facilitate legal trade and prevent it from facing unfair competition from illegal products.

The catch certification scheme is directly inspired from instruments already adopted, at regional level, which have proved to be efficient to combat IUU fishing and to facilitate the legal trade with fishery products. Finally, the IUU Regulation is based on objective criteria, as the EC is not imposing its own standards. The Regulation refers to laws and regulations adopted by third countries, including international conservation and management measures.

- ***Q.: Is there a possibility for a flexible and gradual entry into force to allow developing countries to adapt to the new situation?***
- *A.: The European Council has adopted this Regulation unanimously without granting a transition period or the possibility for special treatments or exemptions for any country. The IUU Regulation will only apply to marine catches obtained as of 1 January 2010. Hence, any products stemming from catches obtained before this date do not need to be accompanied by a catch certificate. For obvious reasons, it will apply first for fresh products and later on for all products, depending on the catch dates and not on the export or import dates. The competent EU Member States' authorities may thus request suitable documentation from importers or other operators concerned when products are to be imported stemming from catches operated before 1.1.2010 which do not need a catch certificate, in order to determine if the catching activities actually occurred prior to that date.*
- ***Q.: Does Overseas Countries and Territories (e.g. the Falkland Islands, French Polynesia) have a specific status under the IUU Regulation?***
- *A.: Overseas Countries and Territories are not part of the territory of the European Community and are therefore regarded as third countries under the IUU Regulation. Overseas Territories must therefore implement the IUU Regulation like any other third country in order for their products caught in compliance with the relevant conservation and management rules to be traded, directly or indirectly, with the EC.*

⁷ EC fishing vessels are submitted to specific and stricter control measures under Regulation (please details), which are currently reviewed to improve their efficiency (see Commission's Proposal of 14 November 2208 quoted above)

Cooperation with third countries

Improved cooperation between EU Member States and third countries in the fight against IUU fishing is an essential element of the IUU Regulation which will not be limited to the specific aspects concerning the catch certification scheme.

IUU fishing is a global problem which affects all countries and in particular coastal developing countries where certain communities are sometimes solely dependent on the fishing industry. It is therefore vital to set up efficient cooperation mechanisms between EU Member States and third countries in order to curb IUU fishing and provide opportunities for operators acting in compliance with applicable conservation and management measures.

These mechanisms will be fully working only if third countries take steps to cooperate with the European Community and to efficiently act in compliance with the IUU Regulation. It would be mutually beneficial for the European Community and third countries alike to fight IUU fishing activities. The livelihood of fishermen, the environment and global trade are areas that are already at stake and will be even more jeopardized if IUU fishing continues unabated.

The catch certification scheme covers both processed and unprocessed marine products and will improve cooperation between flag, market and processing States. In the presence of well founded doubts on the validity of the catch certificates or in respect of the management and conservation measures, EU Member States will inform the third country concerned and ask it to carry out all relevant verifications, the results of which will make it possible to take a decision for accepting or refusing the goods on the EC market.

However, cooperation with third countries should not be limited to the sole purpose of verifying catch certificates or related documents. It also has to cater for specific situations, deriving from the diversity of third countries and its related trade flows and to provide a legal basis for exchange of information to combat IUU fishing.

Scope of the IUU Regulation and definitions

The IUU Regulation aims at preventing, deterring and eliminating IUU fishing activities in any maritime waters in as much they are related to the European Community through trade flows, or the flag of fishing vessels, or the nationality of operators. Its thus applies to all trade of marine fishery products, processed or not, originating from third country fishing vessel and exported to the Community by any means of transport, and to catches originating from Community fishing vessels to be exported to third countries. The scope is laid down in Article 1(3) of the IUU Regulation.

Some products are however excluded from the scope of the IUU Regulation. The list can be found in Annex I to this Regulation, which is revised on a yearly basis.

Due to the definition of "fishing vessel" in Article 2(5) of the IUU Regulation, products stemming from catches offloaded by divers or from traps on support vessels, are included in the scope of the IUU Regulation. The same counts for products other than fry or larvae derived from the sea and grown in a farm before being sold. All those catches are therefore subject to the catch certificate requirement as set out in Chapter III of the IUU Regulation.

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In line with the definition of IUU fishing in the International Plan of Action to prevent, deter and eliminate IUU fishing adopted by the FAO in 2001, it was important to describe certain other definitions, such as "importation", "exportation", "re-exportation", "consignment", etc. All those definitions can be found in Article 2(1) of the IUU Regulation which is attached to this manual in the annex.

The scope of the IUU Regulation to prevent, deter and eliminate IUU fishing covers:

- infringements to rules on management and conservation of fisheries resources in national and international waters;
- fishing activities in high seas areas covered by a Regional Fisheries Management Organisation (RFMO) carried out by vessels without nationality or registered under a flag States which is a non-contracting or non-cooperating Party to the RFMO and in a manner contravening the rules issued by this organisation;
- fishing activities carried out in high seas areas not covered by a RFMO in a manner inconsistent with state responsibilities for the conservation of fisheries resources under international law.
- behaviours which shall be qualified as presumed IUU fishing activities. Under the IUU Regulation, a fishing vessel is notably presumed to be engaged in IUU fishing activities if it is shown that its operators have carried out activities in contravention with the conservation and management measures applicable in the area concerned, such as fishing without a valid licence, in a closed area, beyond a closed depth or during a closed season, or by using prohibited gear, as well as the failure to fulfil reporting obligations, falsifying its identify, or obstructing the work of inspectors.

– ***Q.: Does the IUU Regulation apply to catches obtained before 1 January 2010?***

– ***A.: No, the scope of the IUU Regulation will only cover marine catches made from 1 January 2010. The IUU Regulation does not apply to products processed from catches obtained before 1 January 2010. Such products do not need to be accompanied by a catch certificate even if they are imported to the EU after 1 January 2010. This effectively means that some consignments will enter the EC after this date without a catch certificate since the products were caught prior to this deadline. The EC is aware of the fact that raw materials used to process products and the processed products themselves may be kept in storage for a certain time, depending on various factors, before being traded to the EC. No specific deadline or transition periods are imposed as the IUU Regulation applies to all products in a non-discriminatory manner. If breaches and false declarations under the IUU Regulation are detected, it will be the importer in the EU Member State who will be held responsible. In order to avoid any delay at the stage of importation, it is advisable to present suitable documentation on the catch date to the competent EU Member States' authorities when products are to be imported stemming from catches operated before 1.1.2010 which do not need a catch certificate.***

– ***Q.: How would this work in practice – how will the competent authorities in the EU Member States verify that the products stems from catches obtained before or after 1 January 2010? What documents should be presented to justify the date of catches?***

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- *A.: Certain cases are obvious when determining if catches were taken before or after 1 January 2010. For instance, fresh fish will be covered within the first days of application. The duration of transport is also another determining factor for the date of effective implementation of the IUU Regulation in the EC for imported consignments. With the cutting date of 1 January 2010 this means products which are not submitted to the catch certification scheme may be imported without a catch certificate if they stem from catches taken before 1 January. This does however not mean that those products do not have to comply with the relevant applicable conservation and management measures. In case of doubt about the catch date, the competent authority in an EU Member State may look for any suitable information which could indicate when the catches were carried out. Article 17(1) of the IUU Regulation lays down that "EU Member States may carry out all of the verifications they deem necessary to ensure that the provisions of this Regulation are correctly applied".*

- ***Q.: What is meant with the Combined Nomenclature as stated in the definition of fishery product in Article 2(8)?***
- *A.: The Combined Nomenclature (CN) is a legal instrument for designating goods and merchandise which was established to meet, at one and the same time, the requirements both of the Common Customs Tariff and of the external trade statistics of the Community. The basic regulation is Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff. An updated version of the Annex I to the Combined Nomenclature Regulation is published as a Commission Regulation every year in the L-series of the Official Journal of the European Communities. The CN is structured in commodity groups which are identified by an 8-digit code which is based on the 6-digit code of the Harmonised System of designation and coding of commodities (HS) of the World Customs Organisation, which is currently implemented by approximately 150 countries.*

- ***Q.: Are container vessels included in the scope of the definition of fishing vessels in Article 2(5)?***
- *A.: No, container vessels fall outside the scope of fishing vessels and will therefore not have to give prior notification as indicated in Article 6. However, all marine fishery products must be accompanied by a catch certificate regardless of the mode of transportation to the EC (by any type of vessel, by airfreight, by surface transportation).*

- ***Q.: What is meant by a "consignment"?***
- *A.: "Consignment" is defined in Article 2(23) 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 the size, which could range from a single box up to several containers.*

- ***Q.: What products are covered by the scope of the IUU Regulation?***
- *A.: All products listed in chapters 03 and Tariff headings 1604 and 1605 of the Combined Nomenclature are included in the scope of the Regulation, except those products listed in Annex I of the Regulation (excluded products).*

- ***Q.: What is the rationale of selecting certain products to be excluded under Annex I?***
- *A.: Certain fishery products have been excluded from the scope of the Regulation under Annex I since they are either not obtained from catches in maritime waters or of minor importance from the perspective of conservation and management measures and trade to the EC.*

- ***Q.: Since aquaculture products obtained from fry or larvae are excluded from the scope of the Regulation, how can they be distinguished from the products covered (in particular if they are the same specie)? Which practices or methodologies are in place to distinguish the products in practice?***
- *A.: It will be an issue for the authorities of the EU Member States to control and distinguish the consignments falling within the scope of the IUU Regulation. Since, for a number of legal and administrative considerations, the exporter knows the exact nature of the products exported, he knows when he has to request a catch certificate. Controls will be carried out in the EU Member States and if discovered that products covered by the IUU Regulation are being declared as aquaculture products obtained from fry or larvae, the EU Member States will take measures under the IUU Regulation and will hold the importer responsible for the false declaration and the respective third countries authorities will be informed. In case of doubts, an analysis of the product could be carried out where information of the respective third country could be requested as well. The third countries have been invited to communicate details on relevant species subject to aquaculture by using fry or larvae which will be used by the competent authorities of the EU Member States to facilitate the identification of products covered or not covered by the catch certification scheme. Whilst such details might be valuable they can however not constitute legally binding information for competent authorities in order to know what shall be verified and what not. In that respect, it is reminded that the authorities of the exporting countries are the first layer of potential verification of the accuracy of the information on the exported goods with regard to this specific topic.*

4. WHICH RULES APPLY FOR THE INSPECTION OF THIRD COUNTRIES VESSELS AND FISHERY PRODUCTS IN EU MEMBER STATES?

The IUU Regulation provides an improved framework for port State control, allowing EU Member State authorities to better monitor and supervise incoming fishing vessels and their catches. Access to port services, landings and transshipment by third country fishing vessels will therefore only be authorised in ports designated by EU Member States (see Article 5). Masters of third country fishing vessels must also notify the competent authority of the EU Member State whose port facilities they wish to use at least 3 working days prior to estimated time of arrival. This deadline will assist authorities to better organise its inspection and verification activities and to avoid unnecessary congestion in ports. Exceptions to this notification period taking into account the type of fishery products are laid down in the Commission Implementing Regulation. In addition, masters of third country fishing vessels (or their representatives) shall submit to the EU Member State

authority a declaration indicating the quantity of fishery products by species and the date and place of the catch prior to landing or transhipment.

For the catch to be landed or transhipped in the EC, a validated catch certificate has to accompany the prior notification (see section 5 on the Catch certificate).

As mentioned in the paragraph above, access to port services and the conduct of landing or transhipment operations by third country fishing vessels are only allowed in designated ports of the EU Member States. The list of all ports an EU Member State has designated for this purpose has to be transmitted annually to the European Commission, which will publish it in the Official Journal of the EU and on its website.

Prior notification (Article 6)

Masters of third country fishing vessels must notify the competent authorities of an EU Member State whose (designated) port facilities they wish to use at least 3 working days prior to the estimated time of arrival, or entry into that port may be denied.

Shorter deadlines will apply when necessary, taking into account the type of product (e.g. for fresh fish). Detailed provisions of these deadlines together with a template for the notification are included in Annex I and II in the Commission Implementing Regulation.

It should also be noted that different dead-lines for prior notification agreed bilaterally with any third country in an international agreement still applies.

The notification will ensure the effectiveness of controls and avoid unnecessary delays in ports.

The prior notification of landing must consist of the following information:

- vessel identification;
- name of designated port and purpose of landing or other operation;
- fishing authorisation or where appropriate, authorisation to tranship;
- dates of the fishing trip;
- estimated time of arrival in port;
- quantities of species and catch;
- the zone where the catch was made or transhipment took place; and,
- quantities to be landed or transhipped

Transhipment

As it is generally acknowledged to be a way to launder illicit catches, transhipment operations will be submitted to improved control rules. All transhipment operations in EC waters are prohibited and may only take place in designated ports in EU Member States. Outside Community waters fishing vessels flying the flag of an EU Member State are not authorised to tranship catches at sea from third country fishing vessels unless the fishing vessels are registered as carrier vessels under the auspice of a RFMO (Article 4(3) and (4)).

In addition, each transhipment must be noted in the catch certificate. These measures will enable the competent authorities to better monitor transhipments.

- ***Q.: What would happen if a fishing vessel tranships fish without any declaration to another vessel, and then the latter vessel ships the fish to the Community?***
- *A.: The products would not be considered accompanied by a validated catch certificate and the products would not be able to enter the EC market. Importation would thus be refused even if the catch itself was validated or/and the processing operation was correctly filled in.*

- ***Q.: If for reasons of logistics a re-load takes place during the transport of a consignment from one vessel to another, would that count as transshipment?***
- *A.: No, re-loading of containers for reasons of logistics would not be counted as transshipment as long as the consignments are not changed or its packaging opened, since the accompanying catch certificates relate to the specific consignments and their appendices under Section 10 provide the transport details.*

Authorisation to enter ports in the Community (Article 7)

Third country fishing vessels will be granted authorisation to land or to tranship where complete prior notice has been given and the fishery products are accompanied by a validated catch certificate. EU Member States may authorise entry into a port if the fishery products are not accompanied by a catch certificate, but shall keep such products in storage until the checking process is completed. If this process is not completed within 14 days of arrival the EU Member State may confiscate the fishery products. Fishing vessels appearing on the Community IUU vessel list will not be authorised to enter into ports of EU Member States (except for reason of force majeure or distress), see Article 37 (5).

Recording of landing and transshipment operations (Article 8)

Masters of third country fishing vessels (or their representatives) have to submit to the EU Member State port authority, prior to landing or transshipment, a declaration indicating:

- the quantity of fishery products by species to be landed or transhipped, and
- the date and place of each catch.

Forms for landing and transshipment declarations are included in Annex III of the Commission Implementing Regulation.

Inspection of fishing vessels (Articles 9 and 10)

EU Member States will carry out inspections of at least 5% of all landings and transshipments by third country fishing vessels each year and by using benchmarks based on harmonised criteria for risk management. However, vessels will systematically be inspected in cases of suspicion or findings of non compliance with conservation and management measures. The following fishing vessels will always be inspected:

- if late or no prior notification is given upon landing (Article 6);
- where catch certificates have not been properly validated (Article 18 (1) c);
- vessels sighted carrying out IUU activities;

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- vessels reported under the Community Alert System;
- vessels identified by the European Commission presumed to have carried out IUU activities and
- vessels listed on IUU vessel lists adopted by RFMOs.

The inspections will be organised in such a way that unnecessary delays in port are avoided.

In the event of infringements (Article 11)

There will be no authorisation to land or tranship catches in an EU Member State port if the inspection shows evidence that the vessel engaged in IUU fishing activities.

Furthermore, the competent flag State authority will be notified of the inspection report for the purpose of its own investigation and follow up. For infringements occurred in the EEZ of a coastal State, this country will also be notified for the purpose of investigation. Where relevant, the flag States of the donor vessel will be notified of the infringement and the notification will also be communicated to the RFMO competent for the violated conservation and management measures.

If the suspected IUU activity was carried out on the high seas or in the waters of a coastal State, the inspecting EU Member State will cooperate with the flag or coastal State concerned in carrying out an investigation and if given permission by that flag or coastal State, even sanctions the fishing vessel accordingly.

- ***Q.: What are the obligations of the coastal State with regard to port inspection of fishing vessels (under another flag) landing in its ports?***
- ***A.: There are no specific obligations for third countries, including coastal States under the IUU Regulation. However, if verification by an EU Member State unveils that a foreign vessel carrying out fishing activities in the EEZ of coastal State did not comply with the applicable conservation and management measures of that country, information on these activities will be transmitted to both the flag and the coastal State. Those States may thereafter take further action according to national law.***
- ***Q.: What does the EC do to control its own vessels?***
- ***A.: EC vessels are controlled through another Regulation {insert no. and ref. when available} which is in the process of being revised and contains stringent provisions in line with a comprehensive compatibility with the ones in the IUU Regulation. The new Regulation will enter into force on 1 January 2010.***

5. THE CATCH CERTIFICATION SCHEME (ARTICLES 12 – 22)

The European Community catch certification scheme is an essential part of the IUU Regulation which is intended to improve the traceability of all marine fishery products traded with the Community and facilitate the control of their compliance with conservation and

management rules, in cooperation with third countries. The IUU Regulation provides that the trade with the Community of fishery products obtained from IUU fishing will be prohibited. To ensure the effectiveness of this prohibition, fishery products shall only be imported into the Community when accompanied by a catch certificate. Through this instrument, the competent authorities of the flag State of the catching vessel will certify that the catches concerned have been made in accordance with applicable laws, regulations and international conservation and management measures, i.e. the domestic, regional and international laws that the country has adopted. This certificate shall be validated by the competent authority of the flag State, and if necessary, other documents envisaged by the certification scheme in the event of an indirect import after transshipment, transit or processing of the products in another third country.

The implementation of this scheme will contribute to reduce significantly a major loophole, which is that, there is currently no legal system at international level to ensure that fishery products internationally traded stem from non IUU catches done in compliance with conservation and management measures, safe for some species covered by RFMOs catch documentation schemes. Thus products derived from IUU catches can compete virtually without any restriction with products obtained from legitimate catches.

Implementation of the catch certification scheme to catches by EC vessels

Catches by EC vessels are submitted to strict control mechanisms, which will be reinforced with a new Control Regulation *{insert no. and ref. when available}*

Under Article 15, where EC catches are exported towards third countries, they shall be subject to the same certification scheme, if required by the third countries of destination concerned within the framework of the cooperation laid down in Article 20(4).

However, EC catches exported to a third country and re-exported to the EC from there after processing have to be accompanied by a catch certificate as the scheme does apply to all unprocessed and processed products imported into the EC irrespective of the nationality of the fishing vessel responsible for the catch.

In both configurations, catch certificates shall in any case not be validated by the Member State authority for catches by EC vessels which do not comply with the Control Regulation and the relevant conservation and management measures.

Due to the definition of "exportation", the validation of catch certificates for EC catches destined to third countries requiring such a certificate or to other third countries for processing with subsequent re-export of the processed products to the EC shall apply to catches:

- transported from the EC territory to those countries, or
- landed or transhipped in another third country and transported from there to those countries, or
- transported directly from the fishing grounds to these countries by the fishing vessel or another vessel following transshipment at sea.

The catch certification scheme will apply in a non-discriminatory manner to all unprocessed or processed catches, except for, inter alia, freshwater fish, ornamental fish, aquaculture products obtained from fry or larvae or certain molluscs. The full list of exempt products can be found in Annex I of the IUU Regulation, which will be revised on a yearly basis.

Inspired by RFMO's catch documentation schemes which have proven to be the most effective, the catch certification scheme is a flexible instrument that can take into account different situations such as the nature of products, the type of fisheries, existing control systems and other factors. By ensuring product-traceability from the fishing net to the plate, including processing operations, the certification scheme aim to strengthen compliance with management and conservation rules and to support international cooperation in the fight against IUU fishing.

5.1 Purpose

All marine fishery products traded with the EC, including processed products, must be accompanied by validated catch certificates. Otherwise importation of the products will be refused.

The validation must certify that the catch was made in accordance with applicable laws, regulations and international conservation and management measures.

The objectives of the catch certification scheme are threefold:

- ensuring product traceability at all production stages, from catch to marketing, including processing and transport;
- enabling flag States to better monitor the fishing activities carried out by its vessels and so support compliance with conservation and management rules; and
- providing a legal basis for cooperation between flag States, countries of processing and of marketing and improving the dissemination of information.

The provisions on the catch certification scheme can be found in Chapter III of the IUU Regulation whilst models of the catch certificate and the re-exportation certificate are set out in Annexes II to the IUU Regulation. The form of the statement to be used for the indirect importation of fisheries products to the EC with prior processing in another third country than the flag State is attached in Annex IV to the IUU Regulation.

The certification scheme is widely inspired from existing catch documentation schemes already adopted by RFMOs for certain species and which are implemented in many countries. Operators and authorities have therefore already acquired a certain degree of expertise and experience in handling catch certificates.

5.2 Products concerned

The catch certification scheme applies to all marine fishery products obtained from catches done from 1 January 2010. Some products, however, are excluded from the scope of the IUU Regulation. The detailed list of these excluded products can be found in Annex I of the IUU Regulation and can be revised by the European Commission on an annual basis.

The definition of the marine fishery products concerned is found in Article 2(8) of the IUU Regulation with a reference to a universal recognised criterion. The detailed description of

these products is provided in Chapter 03 and Tariff headings 1604 and 1605 of the Community Combined Nomenclature. The Combined Nomenclature was established by Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff. It is updated every year and is published as a Commission Regulation in the Official Journal of the European Union, L Series. The latest version as of 1 January 2009 is available as Commission Regulation (EC) No 1031/2008 in the EU Official Journal L 291 of 31 October 2008. For reference, the 8-digit codes of the Combined Nomenclature are based upon the 6-digit codes of the Harmonised Commodity Description and Coding System (HS) of the World Customs Organisation, which is implemented by more than 150 countries and economic unions.

It should be noted that for the identification and description of products in the catch certificate (Section 3 – product code) third countries should use their own code (based on the HS code) as the competent authorities of the EU Member States will have access to it and to the corresponding product description.

5.3 Products excluded from the scope of the IUU Regulation

Chapter 03 and Tariff Headings 1604 and 1605

Some products falling under Chapter 03 and Tariff headings 1604 and 1605 are excluded from the scope of the IUU Regulation and its catch certification scheme, such as aquaculture products obtained from fry or larvae, freshwater fish, ornamental fish, mussels, oysters, scallops, snails and other products of minor importance. A detailed list of excluded products can be found in Annex I of the IUU Regulation and can be revised by the European Commission on an annual basis.

Other excluded products

Products containing or obtained from fishery products which are not classified in Chapter 03 or in headings 1604 and 1605 of the Combined Nomenclature are also excluded from the scope of the IUU Regulation and its catch certification scheme. These include for instance products classified in Chapter 05 (fish waste or other fishery products not fitted for human consumption...), in Chapter 15 (fish fats and oils...), in heading 1603 (extracts and juices of fish, crustaceans, molluscs and other aquatic invertebrates...), in Chapter 19 (stuffed pasta containing more than 20 % in weight of fish, crustaceans, molluscs and other aquatic invertebrates...), in Chapter 23 (flours, meal and pellets of fish, crustaceans, molluscs and other aquatic invertebrates, fish solubles, fish feed...), etc.

5.4 Trade flows concerned

The IUU Regulation applies to all trade of marine fishery products, processed or not, originating from third country fishing vessels and exported to the European Community by any means of transportation. Moreover, the IUU Regulation applies to catches originating from European Community fishing vessels to be exported to third countries. Transhipments and processing operations of fishery products are also included in the scope of the certification scheme.

Importation to the EC

The catch certification scheme applies to all imports of fishery products as described above. This also includes where products are indirectly imported from a third country other than the flag State, either with or without prior processing (see Articles 12(2) and 14 of the IUU Regulation).

Exportation from the EC

Catches from EC fishing vessels - with the exception of the products listed in Annex 1 of the IUU Regulation - are also subject to the validation of catch certificates by competent EU Member State authorities prior to exportation, if required by the third country of destination. It is important to note that catches done by EC vessels which, following their export are indirectly imported to the Community in their processed or unprocessed form from a third country must be accompanied by a catch certificate validated by the flag EU Member State. The importation to the Community of consignments of such fishery products will otherwise not be authorised. This will ensure traceability of all fishery products traded with the Community and the non-discriminatory treatment in trade relations with third countries.

Re-exportation

The IUU Regulation applies to all re-exportation of fishery products previously imported into the Community (Article 21). On re-exportation the competent authority of the EU Member State concerned has to validate the section "re-export" of the catch certificate, laid down in Annex II of the IUU Regulation.

The terms "importation", "exportation" and "re-exportation" are defined in Article 2(11), (13) and (14). For more details please see section 3.

5.5 Catch certification scheme and means of transportation

The catch certification scheme applies to all fishery products referred to in Article 2(8) to imports, exports and re-exports to and from the Community, irrespective of the means of transport (fishing vessel, other vessel, air or land transportation).

5.6 Indirect importation of fishery products from a flag State to the Community via another third country (Article 14)

Indirect importation without processing in another third country (Article 14(1))

In order to ensure full traceability, the certification scheme also applies to situations where the fishery products are imported from another country than the flag State. As a result products which are transported to another third country before reaching the Community must also be accompanied by a validated catch certificate and documented evidence that the products did not undergo any operations other than unloading, reloading or any operation designated to preserve them in a good and genuine condition.

Such documented evidence may consist of:

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- a single transport document, covering the passage from the flag State to the Community through that third country (of indirect importation); or,
- a document issued by the authorities in that third country competent for monitoring such activities mentioning:
 - › the fishery products and
 - › the dates of unloading/reloading and
 - › names of the ships or other means of transport and
 - › the conditions in which the products remained unchanged in that third country until re-export to the Community, or
- where appropriate, the re-export certificate established by a RFMO catch documentation scheme recognised in accordance with Article 13 of the IUU Regulation.

Indirect importation with prior processing in another third country (Article 14(2))

Where products are processed in a country other than the flag State the importer in the Community shall submit a statement established by the processing plant in the other third country, provided in Annex IV of the IUU Regulation. The statement must give an exact description of the products and must indicate that the products originated from catches accompanied by a catch certificate. A copy of those catch certificates must be attached to this statement. The competent authorities in the processing State must endorse the statement.

N.B: Freezing is not regarded as processing, but rather preservation. For freezing of products Article 14(1) applies as explained in the paragraph before. However, other conservation methods, such as drying, salting or smoking are processing, since the structure of the product is significantly changed by such treatments.

5.7 Importation of mixed consignments

Each consignment must be accompanied by one catch certificate per consignment. Where a consignment is composed by products stemming from different catches, one catch certificate per catch has to be attached if not the specific criteria for catches obtained by small vessels are met and the simplified catch certificate applies.

Thus, where products are imported in mixed consignments it is important to ensure that all relevant catch certificates adjoin the mixed consignment to ensure traceability for all products. If a consignment comprises products processed by several processing plants, each plant needs to provide the statement in Annex IV. This means that one consignment may be accompanied by several statements and their related catch certificates.

5.8 Date of implementation of the catch certification scheme

As the IUU Regulation enters into force on 1 January 2010, it does not apply for fishery products caught or processed from catches obtained before 1 January 2010 even if their importation to the European Community market (including after processing) takes place later. The same principle applies to the catch certification scheme. As a result, fishery

products do not need to be accompanied by a catch certificate even if they are imported to the EU after 1 January 2010 (*see 3. - Scope of the IUU Regulation and definitions*)

5.9 Relation to other certification schemes

Other legislation with certification systems for the trade of products, including fishery products, such as health regulations or rules of origin, remains without effecting the IUU Regulation and vice-versa.

The fact that a health certificate is issued for supplies from an approved establishment or vessel or, in addition, an origin certificate, does not infer that the fishery products concerned comply with conservation and management rules. The existence of such certificates is thus not relevant for the purpose of the validation of a catch certificate, which shall rely only on compliance with conservation and management rules.

Adversely, the catch certificates used in accordance with the IUU Regulation will not be substitutes for health certificates and/or certificates of origin. However, it is important to note that the different documents (catch certificates, health certificates, certificates of origin) cannot contain discordant information.

5.10 Use of electronic means (Article 12(4))

Catch certificates require a validation by the flag State. However, there might be situations where the use of electronic means would be advisable, such as for vessels which are not in a port of the flag State since they carry out their activities far away from their home port or in the high seas.

Under Article 12(4), the use of electronic means is allowed for establishing, validating or submitting catch certificates may therefore be established by a representative in the flag State and/or may be communicated by electronic means. The use of electronic means by a flag State must be notified to the European Commission under Article 20(4). This information is of particular relevance in order to ensure that catch certificates for which electronic means have been used enjoy the same legal value than another catch certificate.

As an illustration, electronic means may be used:

- by the third country operator to establish the catch certificate to be submitted to its competent authorities for validation;
- by this authority/ies to validate the catch certificate and communicate it back to the third country operator;
- by the third country operator to communicate the validated catch certificate to the importer in the Community;
- by the EC operator to establish the catch certificate to be submitted to its competent EU Member State's authorities for validation;
- by this EC authority to validate the catch certificate and communicate it back to the EC operator;
- by the EC operator to communicate the validated catch certificate to the importer/processor in the third country.

5.11 Simplified catch certification scheme for fishery products with specific characteristics -catches obtained by small fishing vessels

The specific situation of small scale fisheries in export trade is taken into account in the catch certification scheme. The certification requirements have been adapted in order to facilitate the request for validation which will be done by the exporter following certain criteria based upon this specific situation. Those criteria are published in the Commission Implementing Regulation. A simplified catch certification scheme can apply to catches obtained by fishing vessels

- with an overall length of less than 12 metres without towed gear or
- with an overall length of less than 8 metres with towed gear or
- without a superstructure or
- of less than measured 20 GT.

If catches obtained by such vessels are only landed in the flag State and together form part of one consignment to be exported to the Community, the exporter can request the validation of a simplified catch certificate which the fishermen do not have to sign. However, the exporter must provide information on the fishing vessels and the catches (species, quantities). A template of the simplified catch certificate is attached in Annex IV of the Commission Implementing Regulation.

5.12 Roles of the different parties involved in the certification scheme

In third countries the catch certification scheme will concern:

- operators responsible for activities of fishing vessels, processing and export to provide information on the documents required by the certification scheme;
- the competent authority/ies designated by the flag State to validate the catch certificates, to check and verify their validity and the information submitted by the operators, and the compliance with conservation and management measures applicable to the products listed in the catch certificates. These authorities have to be notified by the flag State to the European Commission under Article 20(1) to (3). The list of flag States and their competent authorities will be published by the European Commission on its website and in the Official Journal of the European Union (Article 22(2)).
- and the authorities which, within their area of competence under national law, may carry out controls on fishery products imported in their country and re-exported without processing or after processing in order to issue the documented evidence referred to in Article 14(1)(b) (ii) and to endorse the statement by processing plants referred to in Article 14 (2), to be found in Annex IV to the IUU Regulation.

In the EU Member States the catch certification scheme will concern:

- (a) for trade flows to third countries (including final re-exportation to the EU)

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- operators responsible for catches by Community fishing vessels flying the flag of an EU Member State which are intended for exportation to a third countries;
- the relevant authorities designated by that EU Member State to validate the applicable documents, to check and verify their validity and the information submitted by the operator and the compliance with conservation and management measures applicable to the products listed in the documents.

(b) for trade flows from third countries

- the importers of fishery products will be required to submit to the authorities of the importing EU Member State a catch certificate, which has been validated by the competent authority of the flag State of the catching vessel, and if necessary, other documents envisaged by the certification scheme in the event of an indirect import after transshipment, transit or processing of the products in another third country. The general deadline for submission of these documents to the authorities of the importing EU Member State is fixed at three working days prior to the anticipated arrival of the consignment in that EU Member State.

This deadline aims at facilitating the checks of the documents to avoid unnecessary trade flow delays. It is however adapted according to the type of fishery product, the distance to the place of catch or the type of transport (sea, road, air) in the Commission Implementing Regulation;

- the relevant authority designated by the EU Member State concerned must check and verify these documents and the related products, where appropriate in cooperation with the third countries concerned, in order to make sure that the information obtained is valid and true and the products have been harvested in compliance with the applicable management and conservation rules.

(A) Role of fishermen and operators

It is up to the exporter to request a catch certificate for catches which are to be traded to the EC, complete it and transmit it to the competent flag State authority for validation. The competent authority will in turn return the validated catch certificate to the exporter.

The EC importer must ensure that the consignment to be imported is accompanied by a validated catch certificate which he must receive from the exporter in the third country prior to the importation to the EC.

(B) Approved economic operators (Article 16(2) and (3))

By derogation to the general rule, EC importers benefiting from "approved economic operators" status will not be obliged to submit the validated catch certificates to the competent authorities of the importing EU Member State prior to the anticipated arrival of the consignment concerned. However, they will have to inform these authorities of the arrival of the products in the same manner as other operators and to hold at their disposal the catch certificates and other relevant documents for the purpose of checks or verifications.

Only an operator established in the EC can be considered as an approved economic operator under Article 16(3). The status of approved economic operator will not impose any

favourable treatment to an importer but will reduce the number of documents to be transmitted to the competent authorities of his EU Member State.

Verifications on import consignments of approved economic operators will take place on the premises of the importer instead of in the places of entry into the EC territory in order to avoid that too many verifications be carried out in those places. The status of "approved economic operator" may be granted only to those operators meeting the criteria listed in Article 16 (3) and the additional criteria of already having a status of Authorised Economic Operator under the Customs Code which is set out in the Commission Implementing Regulation.

The fact that a Community importer is an "approved economic operator" is not of any relevance to exporters in third countries as it does not affect the conditions for the validation of catch certificates.

Importers who want to become an approved economic operator must apply for the status in their respective Member State. The application form is established in Annex VII of the Commission Implementing Regulation. The EU Member States have to inform the European Commission whenever they grant the status of an approved economic operator. The European Commission will make available this information to all other EU Member States. After prior agreement of the approved economic operators concerned the list can as well be made available to the public via Internet.

The Commission Implementing Regulation, in addition to the criteria mentioned above, also outlines in details:

- The application procedure for the APEO certificate
- The procedure for issuing APEO certificates
- The status of an APEO
- Procedures for suspension and withdrawal of the APEO certificate
- Exchange of information under the scheme

– ***Q.: Will the list of approved economic operators be published?***

– *A.: The EU Member States have to inform the European Commission whenever they grant the status of an approved economic operator. The European Commission will make available this information to all other EU Member States. After prior agreement of the approved economic operators concerned the list can as well be made available to the public via Internet. More details are laid down in the Commission Implementing Regulation.*

– ***Q.: How can EC importers become an approved economic operator (APEO)?***

– *A.: Importers must apply for the status in their respective EU Member State using the application form established in Annex VII of the Commission Implementing Regulation. If all criteria are met, the relevant EU Member State will grant the status by using the certificate established in Annex VIII of the Commission Implementation Regulation and thereafter send the list of approved economic operators to the Commission that will publish the list on its website. The criteria for approved economic operators and the procedure for granting this status can be found under Article 16 (3) of the IUU Regulation and in Chapter II of the Commission Implementing Regulation.*

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These criteria are based upon the import volume and compliance with rules by the operators and to their management system and facilities as well. To ensure consistency with the customs procedures, a pre-requisite for the APEO status is that the applicant must be first an authorised economic operator under the customs code

(C) Role of third countries' authorities

Each third country wanting to trade fisheries products with the Community must notify the European Commission of its competent authorities. This information will be verified by the European Commission. Notifications are a fundamental part of the IUU Regulation. The acceptance of catch certificates validated by a given flag State for the purposes of this Regulation is subject to the condition that the European Commission has received a notification from the flag State concerned certifying that:

- (a) it has in place national arrangements for the implementation, control and enforcement of laws, regulations and conservation and management measures which must be complied with by its fishing vessels;
- (b) its public authorities are empowered to attest the veracity of the information contained in catch certificates and to carry out verifications of such certificates upon request from the EU Member States of the EU. The notification shall also include the necessary information to identify those authorities.

These notifications have to include the details of their competent authorities that:

- manage the registration of vessels under their flag;
- deliver, suspend or withdraw fishing licences;
- verify compliance by their vessels with conservation and management rules;
- validate and verify catch certificates.

Within the framework of the notification procedure, it is also requested that the flag State communicates sample forms of the catch certificate to be used by its authorities, which shall be in accordance with the specimen in Annex II of the IUU Regulation.

The detailed information to be given in the notification can be found in Annex III of the IUU Regulation.

The European Commission has to make available to the EU Member States the details of the notifications submitted by flag States (and possible updates) electronically. It also has to publish a list of flag States having communicated such notifications and the names and contact details of their competent authorities in the Official Journal of the EU and on the website of DG MARE.

Only catch certificates validated by a notified and published competent authority may be accepted for the importation into the EC. All notifications received and made publicly available by the Commission prior to 1st January 2010 will be valid from that date. Notifications received later will be valid from the date where they are made publicly available. This publication will occur as soon as the Commission will inform the flag State

that it has received its notification and that it is complete. The publication will be done on the Commission website and in the Official Journal of the European Union, both having the same value.

The notification, including the communication of sample forms of catch certificates aims at preventing the misuse of the catch certification scheme (for example validation of catch certificates by non competent and non notified authorities) and at facilitating the identification of false catch certificates.

The publication in the Official Journal of the EU and on the website of DG MARE is also an indication for all other countries and stakeholders that a country applies the catch certification scheme.

It is up to each flag State to designate its competent authority/ies according to its national organisation structures, as long as it is a public authority empowered to attest the information on the catch certificate. The requirements for the notification of competent authorities are laid down in Annex III. The competent authorities can be designated according to national organisation structures, it can be either one or several authorities on national, regional or local level, given that it is always a public authority.

The demand to notify the competent authorities was transmitted to all third countries in February 2009. A notification can be submitted or amended at any time, even after the entry into force of the IUU Regulation. It is however important to note that catch certificates can only be validated by a competent authority which is listed in the Official Journal of the EU and on the website of DG MARE as provided in Article 22(3) of the IUU Regulation.

Validations

The competent public authority may validate the catch certificates for catches obtained by the vessels flying its flag if, at the time of request for validation, it had no conflicting information that the catch was not made in compliance with applicable conservation and management measures. If at the time of submission of the catch certificate by the exporter, the competent flag State authority does not have all the elements allowing it to ensure the reliability of the information which appears in that certificate and/or of the compliance with applicable conservation and management measures or the competent authority has doubt regarding compliance, it shall carry out any check or verification it considers appropriate to determine whether the catch was legitimate and if it can validate the document. If there is evidence that the catch was not made in compliance with applicable conservation and management measures it shall not validate the catch certificate. However, the IUU Regulation does not impose any obligations on how the validation must be carried out. The organisation of the validation procedure of catch certificates is the competence of each third country and depends on the national law and control systems in place. The domestic control system should also be used for the collection and verification of the necessary information if necessary.

- ***Q.: Will all third countries implement the catch certification scheme by 2010?***
- ***A.: All countries have been invited to notify their authorities for the purpose of implementation of the catch certification scheme of the IUU Regulation. However, they can not be forced to do so. Information on the IUU Regulation has been made available for all third countries. This means that all countries***

will have the opportunity to implement this scheme if they so wish, including operators and industry.

- ***Q.: What would be the consequence if a third country would not notify its competent authorities to implement the catch certification scheme?***
- *A.: Since no validation of catch certificates could be done by this country, no direct and/or indirect trade of fishery products obtained by vessels flying its flag would be possible with the EC.*

- ***Q.: Would there be a list of countries applying the catch certification scheme?***
- *A.: This information could be gained from the list of notified competent authorities as published by the European Commission.*

(D) Role of EU Member States' authorities

(a) General principles for verifications

They apply irrespective of the means of transport used to introduce the fishery products on the EC territory (fishing vessel, other vessels, air, road, etc.).

The fishery products to be imported may be verified by the competent EU Member State authority together with the catch certificate and related documents. Verifications will be carried out mainly on the basis of common risk management criteria except in specific situations listed in the IUU Regulation where verifications will be obligatory. Verifications may consist 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 EU Member States may request the assistance of the competent authorities of the flag State or of the third country when the EU Member State have well founded doubt over the validity of the catch certificate or its compliance with conservation and management rules. This procedure shall not exceed 15 days and the cost of storage will be borne by the EC importer

All checks and verifications must always be carried out before a product is allowed to enter the Community market

In connection to arriving fishery products the competent authorities of an EU Member State has the powers of verification and investigation, both in the present but also retrospectively – in particular in relation to the Community Alert System. (see chapter 6 of this handbook).

(b) How to proceed

Prior to giving green light to the import of fishery products to the Community several measures must, where applicable, be carried out:

- If the products are landed by a fishing vessel it must be checked if a catch certificate accompanies the fishery product (Chapter II).

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- Furthermore, for all products, no matter which mean of transportation is used, a preliminary check of the catch certificate should be done in accordance with Article 16 of the IUU Regulation.

The procedure when fishery products are to be imported is firstly a preliminary check of the catch certificate. It particularly has to be checked if the catch certificate has been validated by the competent authority notified by the third country. Within this context it will be advisable to make use of the database referred to in Article 22.

If the certificate is satisfactory and there is no need for further verification or no contradiction with the results of the inspection of the fishing vessel, the importation can continue. However, as stated in Article 17 of the IUU Regulation verifications shall be carried out in cases that call for it. So if needed, verifications will be carried out before allowing the products to enter the Community.

(c) Imports by approved economic operators

The same proceedings apply mutatis mutandis for consignments and their related catch certificates imported by an approved economic operator.

(d) Shorter deadlines for submission of catch certificates

The same principle applies to consignments coming by air, rail or road. In these cases the EU Member States' authorities will have shorter time to check the documents as the deadline is less than 3 working days (i.e. 4 hours by air, see Annex VI of the Commission Implementing Regulation). Such products will however not be on the market before the documents have been checked.

(e) Fishing vessels

When a third country fishing vessel enters a designated port of an EU Member State and the products are declared for consumption at the point of entry the EU Member State need to authorise the landing. Therefore, a prior notification accompanied by a validated catch certificate needs to be provided by the master of the vessel. Moreover, after authorisation of landing, a landing or transshipment declaration needs to be submitted.

(f) Fish landed for transit to another Member State or transhipped to another Member State

If a landing or a transshipment takes place in one EU Member State for transit only or further transportation by sea and the final destination of the products is another EU Member State, a prior notification is still necessary as the vessel will need authorisation to land or tranship and can thus be inspected by the authorities of the EU Member State of landing or transshipment. Access to port can only be allowed on the basis of Article 7(1) where a prior notification and a validated catch certificate accompany the catches. According to Article 7(3), entry may also be allowed but the fish might be withheld if information is missing in the prior notification. In addition, a landing declaration or transshipment is also necessary in transit cases. The landing declaration contains the catch certificate numbers but the actual certificate might not be attached.

The authorities at the first entry point must ensure that a catch certificate exists but not necessarily verify it as its verification may be the responsibility of the EU Member State of final destination. In that case the competent authorities in that EU Member State of final destination need to receive the validated catch certificate as they will decide whether to

release the product for the market or not. For transit operations it is up to each Member State to decide if they wish to carry out verifications in port or at final destination and communicate their decision to the Commission which will publish it on its website. For transshipment operations, the verification of the catch certificate shall take place in the Member State of final destination, which shall be advised by the Member State of transshipment on the details of the transport.

The fact that fish is landed or transhipped from a fishing vessel for transit or further transportation to another Member State has no impact on port inspections under Articles 9 to 11.

The same principles apply for transit operations for products arriving by other means of transport (airfreight, road or railway).

A list of all EU Member States' decisions of place of verification will be published on the Commission's website before the entry into force of the Regulation.

The catch certificate must be submitted three days in advance as stated in Article 16(1) – unless otherwise provided for in the Commission Implementing Regulation for consignments entering the Community by airfreight, road or railway.

(g) Catch certificates for exported EC catches

Community catches exported to third countries have to be accompanied by a Community catch certificate if so requested by the third country of destination concerned and agreed under Article 20 (4).

However, if the Community catch is to be processed in the third country of destination with subsequent re-exportation of the processed products to the EC, a catch certificate has to be validated, even in the absence of prior request by that country. Otherwise, the importation of the processed products would not be authorised due to the lack of a validated catch certificate (see also in section 5.4).

The same pre-requirements as for third country products imported into the Community therefore apply in respect of validation of the legality of catches to be exported to a third country by the competent authority of the flag EU Member State. The list of third countries wishing to receive catch certificates for EC catches will be published and kept up to date on the Commission's website.

(E) Role of the European Commission

The European Commission is responsible for various activities aiming to ensure and facilitate the implementation and practical operation of the Community catch certification scheme. Such activities include among others:

- the distribution of information on the IUU Regulation to third countries and EU Member States' authorities and the support of projects which are aimed at facilitating compliance with the IUU Regulation (training sessions, seminars, etc);
- the development of detailed procedures to facilitate the implementation of the IUU Regulation, in cooperation with third countries, taking into account specific situations, such as the profile of certain fisheries, the national control system, the use of computer systems, arrangements, deadline for submission of documents etc.;

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- the monitoring of notifications of third countries and EU Member States of their designated authorities competent for the application of the IUU Regulation and publication of this information;
- the establishment, monitoring and publication of the list of catch documents of recognised RFMO catch documentation schemes;
- the annual revision and publication of the list of fishery products excluded from the scope of the IUU Regulation;
- the communication to the Member States of the names and addresses of approved economic operators and
- the publication on its website of notifications from Member States on the measures taken to implement Article 19(1) on transit operations.

Further activities by the Commission, which are not directly related to the implementation of the catch certification scheme, are described in other sections of the manual.

5.13 Procedure of certification

(A) Forms and numbering

Forms of the catch certificate used by a third country will have to be identical to the model communicated in its flag State notification to the European Commission. In order to ensure the validity of the documents and to prevent any falsification or fraudulent disclosures, all catch certificates submitted at export must be validated by a competent flag State authority. It is therefore also important to number the catch certificates. It is up to each flag State to adopt its own numbering structure for the catch certificates, but the European Commission proposes the following elements:

- ISO code for each flag State;
- Identifying code for the competent authority;
- Year of validation;
- Number in continuous series.

In the event where several competent authorities per flag State (at local or regional level) have been designated, each of them will be identified by a separate code to be communicated in the notifications.

The form in Annex II of the IUU Regulation is made of two parts, the catch certificate and the re-export certificate. The catch certificate concern flag States directly. The re-export certificate only concern EU Member States and will be used by their competent authorities to verify if products which were imported to the Community and are due to be re-exported, were accompanied by a catch certificate validated by the flag State. In view of the volume and of the diversity of exports from the Community, it is important to avoid trade flows that could possibly be used to launder illegal fishery products of third countries. Thus the re-

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export certificate aims at preventing illegal products which could fraudulently reach the EC despite the verifications on the import side to be subsequently traded to third countries.

(B) Establishment of the catch certificate

- Section 1 of the catch certificate and boxes "document number" and "validation authority" are used to identify the document and the authority which validates it. It is therefore reserved for that purpose and to be filled in by the relevant competent authority.
- Details of the vessel, of the products and of the applicable measures have to be filled in sections 2 to 5, which includes the signature by the master of the fishing vessel (or his representative), except for the "Verified Weight Landed (kg) where appropriate" box in Section 3, which should be filled by the validating authority in cases where this have been controlled. It is up to third countries to decide who can act as representative of a master and who can fill the information in sections 2 to 4, as, depending on who is responsible for the exportation, it could be the vessel owner or master or his representative, or the exporter, if different from the vessel owner, on the basis of the relevant information provide by the vessel owner:.
- Section 6 (declaration of transshipment at sea) is to be filled jointly by the masters (or their representative) of the fishing vessel and of the receiving ship. It applies only where appropriate.
- Section 7 (transshipment authorisation within a port area) should to be filled by the authority responsible for the transshipment control. It covers an alternative scenario to transshipment at sea and is to be filled in only where appropriate.
- Section 8 is to be filled in by the exporter of the consignment to the Community, who also has to provide the transport details of section 10 in Appendix I to Annex II in the IUU Regulation.

By providing the information referred to in sections 2, 8 and 10, the operators concerned take responsibility for the accuracy and exhaustiveness of the data they supply.

For more details see the annotated catch certificate in section 5.16.

(C) Validation of the catch certificate

The exporter has to submit the catch certificate, containing all the information required in sections 2 to 8 and 10 and in Appendix I (and sections 6 and/or 7 in the event of transshipment) to the competent authority of the flag State. If the authority is satisfied with the information in the catch certificate and has no grounds to doubt its exhaustiveness and accuracy and the compliance with applicable management and conservation measures, it may complete section 1 ("Document Number" and "Validating Authority") and section 9 ("Flag State Authority Validation"). The catch certificate is thus validated and can be returned to the exporter. The validating authority keeps a copy of thereof, together with any documentation verified and used for its validation, for a period of at least three years starting from the date of validation. This period can be longer according to national rules.

If, at the time of submission of the catch certificate by the exporter, the competent flag State authority does not have all the elements allowing it to ensure the reliability of the information which appears in that certificate and/or of the compliance with applicable

conservation and management measures, the authority should carry out any checks or verifications it considers appropriate to determine if it can validate the certificate.

(D) Communication of a validated catch certificate by the exporter

Once the exporter has received the validated catch certificate from the competent authority, the exporter must make sure that its original is made available to the importer in the Community who will have to submit it to the authorities of the EU Member State of importation, irrespective of the ways by which the consignment concerned will be dispatched. It is recommended that the exporter keeps a copy of the transmitted catch certificate for a period of at least 3 years. The consignment can be directed

(a) directly towards the Community or

(b) towards another third country, from where it will be re-exported towards the Community without modification and without having undergone processing or

(c) towards another third country where it will undergo processing before being re-exported into the Community.

Accordingly the catch certificate has to be made available to the importer with respects to the way of direction of the consignment. The precise means by which the exporter will make sure that the validated catch certificate (original) can be made available is not determined in the IUU Regulation. It is an individual issue, which depends on the way the consignment is dispatched (see a), b) and c) above) and/or from the nature of the commercial transaction (direct sale, involvement of a third party, etc). In all these cases, the Community importer will have the obligation to submit these catch certificates to the competent authority of the EU Member State of importation at least three working days before the estimated time of arrival of the consignment (Article 16(1)). Shorter deadline are laid down in the Commission Implementing Regulation and will apply for consignments entering the Community by airfreight, road or railway.

In the above cases b) and c), the importer will also have to submit the documents provided for in Article 14 (1) and (2) which will be used to ensure full traceability by determining if the product imported in the Community corresponds to the catch certificate(s).

The conditions for issuing these documents are described in Article 14(1) and (2). The same basic principles pertaining to the catch certificates apply, i.e. the operators concerned engage their responsibility on their exhaustiveness and accuracy of the information they provide on these documents and the authorities may undertake any checks or verifications they feel to be necessary prior to issuing these documents.

(E) Controls and verifications of the catch certificate (Articles 16 and 17)

The general principle is that Controls and verifications shall be carried out by the competent authority of the EU Member State of first entry. However, specific provisions are laid down for transit and transshipment operations in order not to affect the traffic flow.

In the case of fishery products in transit in the Member State of first entry to another Member State, controls and verifications may be carried out by the Member State of first entry or final destination. Procedures will be set up in order to ensure the information flow of the concerned consignments between these EU Member States of first entry and those of effective destination. Information on the procedures decided by the Member States will be

published by the Commission on its website. Whilst these procedures will not concern the authorities in third countries, it is important to mention these provisions in order to avoid any possible confusion for exporters, in respect of the operator in the Community who will need to have the catch certificate available for submission to the authority of the actual EU Member State of destination.

In the case of fishery products transhipped in the Member State of first entry with a final destination in another Member State, controls and verifications shall be carried out in that Member State.

Documentary checks

The competent authorities of the EU Member States will check the validated catch certificates together with the elements provided for in the notification of the flag State. The methods of this control of a purely documentary nature will be defined on the basis of risk management to ensure their proportionality and to avoid useless delays in the trade flows.

Verifications

The competent authorities of EU Member States may carry out all additional verifications considered necessary if the initial check of the catch certificate simply does not make it possible to permit the import of the products. These verifications will be organised and will be led on the basis of national and Community criteria of risk management in order to ensure their proportionality and their harmonisation in all EU Member States.

Similarly, the Regulation specifies the cases in which verification will be obligatory, and the methods of cooperation with the third countries concerned (flag States or other States in the event of transit or processing operations in another third country). The authorisation of access to the market will remain suspended whilst awaiting the results of the checks.

(F) Requirement to keep the catch certificate

The originals of the catch certificates have to be preserved for a minimum period of three years by the competent authority in the Community. It is also suitable that the validation authorities in the third countries, the exporter and the importer retain a copy of these documents for a corresponding period.

5.14 Recognised RFMO schemes (Article 13)

Catch certificates, re-export certificates and related documents validated in conformity with catch documentation schemes adopted by RFMOs and which comply with the requirements of the IUU Regulation may be accepted for the species concerned. The list of such documentation schemes is to be determined by the European Commission. This list is included in Annex V of the Commission Implementing Regulation and comprises currently the following schemes:

- Dissostichus spp. catch documentation scheme as set out in Council Regulation No 1035/2001 of 22 May 2001 establishing a catch documentation scheme for Dissostichus spp.
- ICCAT Bluefin tuna Catch Documentation Programme as set out in ICCAT Recommendation 08-12 amending 07-10 on an ICCAT Bluefin tuna Catch Documentation Program.

- CCSBT (Commission for the Conservation of Southern Bluefin Tuna) – Resolution on the implementation of a CCSBT Catch Documentation scheme (adopted at the Fifteenth Annual Meeting – 14-17 October 2008), under the condition that in addition to the catch documents and any related documents validated in conformity with the CCSBT Catch Documentation scheme, the importer submits to the authorities of the EU Member States of importation the information on transport details, specified in the Appendix on transport details included in Annex II of the IUU Regulation.

These schemes will also apply for trade of Community catches to third countries with the relevant species covered by the RFMOs concerned.

The rules to be followed to fill out and validate such catch certificates are those laid down by the catch documentation scheme of the RFMO concerned.

The applicable provisions for controls, the checks and the acceptance of the catch certificates and cooperation are the general provisions of the IUU Regulation

5.15 Use of electronic traceability systems under the control of third countries / special arrangement between a third country and the European Commission

The IUU Regulation enables the European Commission to cooperate administratively with a third country in areas pertaining to the implementation of the Regulation under Article 20(4), as cooperation with third countries should not be limited to the sole purpose of verifying catch certificates or related documents. This type of cooperation can only be established at a bilateral level, taking into account specific situations such as existing control systems, profile of trade or fisheries. Areas where such cooperation could take place depend on the needs and situations identified and discussed with the interested third countries and can comprise

- the use of electronic means to establish, validate or submit the catch certificates,
- the replacement of the catch certificate by alternative electronic traceability systems for tracing the origin of the goods under the third country authorities' control, according to methods to be agreed with interested flag States;
- mutual assistance and exchange of information.

The administrative cooperation can however not generate derogations from the IUU Regulation, such as the exemption of the catch certification scheme. The cooperation under Article 20(4) shall also not be construed as a precondition for the application of Chapter III to imports originating from catches made by fishing vessels flying the flag of any State. In other words, such cooperation may be established prior to or after the date of the implementation of the IUU Regulation, if the need for such cooperation has been identified jointly and laid down in an agreed record.

Information on the third countries having entered in such administrative cooperation and the content thereof will be made public by the European Commission.

5.16 How to fill in the catch certificate and the Processing statement

The explanations on the different fields of the catch certificate and the processing statement should provide assistance and support to fill in the forms. It should be kept in mind that the template provided in Annex II of the IUU Regulation is a unique document which covers all possible situations for the issuance of a catch certificate. Therefore not all boxes do necessarily apply in all cases.

- ***Q.: What is the relation between Annex II and Annex IV?***
- ***A.: Annex II is a template for the catch certificate with detailed information on the catch and the exportation, which has to be validated by the competent authority of the flag State. Annex IV is not a certificate but a statement on the products used for processing in another country than the flag State of the products which has to be provided by a processor and to which a validated catch certificate (or a copy) for the products used has to be attached. Annex IV should only be completed for processing of imported catches. Processing of catches from the same country will be declared in Annex II by using both the boxes "species" and "product code".***

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| <u>EUROPEAN COMMUNITY CATCH CERTIFICATE</u> | | | | | | | | | | |
|--|---------------------|--------------------------------|--|---|--|---|-------------------------------|---------------------------------------|--------------------------------------|--|
| Document number | | | | | Validating Authority | | | | | |
| 1. Name | | | Address | | | | Tel. Fax | | | |
| 2. Fishing Vessel Name | | | Flag - Home Port and Registration Number | | | Call Sign | | IMO/Lloyd's Number (if issued) | | |
| Fishing licence No. – Valid to | | | Inmarsat No. Telefax No. Telephone No. E-mail address (if issued) | | | | | | | |
| 3. Description of Product | | | Type of processing authorised on board: | | | 4. References of applicable conservation and management measures | | | | |
| Species | Product code | Catch area(s) and dates | Estimated live weight (kg) | Estimated weight to be landed (kg) | Verified Weight Landed (kg) where appropriate | | | | | |
| | | | | | | | | | | |
| 5. Name of master of fishing vessel - Signature - Seal: | | | | | | | | | | |
| 6. Declaration of Transhipment at Sea Name of Master of Fishing vessel | | | | Signature and Date | | Transhipment Date/Area/Position | | Estimated weight (kg) | | |
| Master of Receiving Vessel | | | Signature | Vessel Name | | Call Sign | | IMO/Lloyds Number (if issued) | | |
| 7. Transhipment authorisation within a port area: | | | | | | | | | | |
| Name | Authority | Signature | Address | Tel. | Port of Landing | Date of Landing | Seal (Stamp) | | | |
| 8. Name and address of Exporter | | Signature | | | Date | | Seal | | | |
| 9. Flag State Authority Validation: | | | | | | | | | | |
| Name/Title | | | Signature | | | Date | | Seal (Stamp) | | |
| 10. Transport details : See Appendix I | | | | | | | | | | |
| 11. Importer Declaration: | | | | | | | | | | |
| Name and address of Importer | | | Signature | | Date | | Seal | | Product CN code | |
| Documents under Articles 14(1), (2) of Regulation (EC) n° .../... | | | References | | | | | | | |
| 12. Import control: Authority | | | Place | | Importation authorised* | | Importation suspended* | | Verification requested – date | |
| Customs declaration (if issued) | | | Number | | | | Date | | Place | |

* Tick as appropriate.

Section 1 of the catch certificate and boxes "document number" and "validation authority" are used to identify the document and the authority which validates it. They are therefore reserved for that purpose and have to be filled in by the validating authority.

The “**document number**” may include the “ISO code for each Flag State”, “Identifying code for the competent authority”, “Year of validation” and “Number in continuous series”. However, no fixed template may be imposed as the structure of the document number can vary according to different factors in different flag States (one or more competent authorities, number of certificates, etc.). It is up to each country to decide on the structure of the document number. It is suggested that each authority be identified by a specific code to be given by the country. As an illustration:

ISO code/authority code/year/number in continuous series (number of digits to be decided by each country in relation to the anticipated number of certificates)

The information required such as “**Name**”, “**Address**”, “**Tel.**” “**Fax**” refers to the validating authority and is to be provided by this authority.

N.B.: The reference number of the health certificate or an origin certificate can not be used as document number, as this is a separate document, established to serve different purposes.

Sections 2 to 5

- Details of the vessel, of the products and of the applicable measures have to be filled in sections 2 to 5, which includes the signature by the master of the fishing vessel (or his representative), except for the "Verified Weight Landed (kg) where appropriate" box in Section 3, which should be filled by the validating authority in cases where this have been controlled. It is up to third countries to decide who can act as representative of a master and who can fill the information in sections 2 to 4, as, depending on who is responsible for the exportation, it could be the vessel owner or master or his representative, or the exporter, if different from the vessel owner, on the basis of the relevant information provided by the vessel owner. In **Section 2 (details of the vessel)** some fields are only to be filled if appropriate (IMO/Lloyd's number, Inmarsat No.)

Section 3 (description of product): The product is described by using the species name and the product code is the customs code used in the nomenclature implemented by the third country; they are all based upon the 6-digit code of the Harmonised System and the EC makes available on-line all the national nomenclatures to the public on the page "Applied Tariffs Database" of the website <http://mkaccdb.eu.int>. If more detailed information is to be given (e.g. for processed products) the fields can be extended or an attachment can be annexed to the certificate. The lay out of the catch certificate is to be set up by the third country. Thus, the format of the certificate may be designed according to national needs.

Species: Information must be available to the operators as well for other purposes, e.g. quality control, price negotiations and the species used can usually be identified. This part of the catch certificate has to be filled in by the operator, not by the authorities. In case of processed products several species can be mentioned.

Product code: The code is only to be mentioned for the products to be exported. This information is to be provided by the operator. For its part, the EC will use the 8 digit Combined Nomenclature (CN) code based on the 6 digit codes of the Harmonized Commodity description and Coding System (HS) for the catch certificates validated in respect of exported EC catches. It is suggested that each country uses the national customs codes as they are usually based upon the HS. It will be the easiest way for the common understanding on the product mentioned on the catch certificate.

Catch area(s): to be mentioned by the operator according to the definitions in the national legislation of the validating third country or on international level. The catch area is either the national EEZ code (or any national coding system), RFMO code or FAO code. No specific designation of fishing areas is foreseen in the IUU Regulation.

Estimated live weight, estimated weight to be landed: This information has to be given by the operator, but only estimations are to be provided.

Verified weight landed: To be provided by the validating authorities, if catches are weight at landing. It will be up to the flag State to decide if they accept a certain discrepancy in the estimated and verified weights indicated in the catch certificate.

N.B.: The **kind of weight** (net weight/gross weight) is not to be determined, since this part of the catch certificate contains the information which the flag State authorities validate so it should be according to the flag State's national rules. The weight here is not necessarily the weight of the imported product. Remember: the catch certificate accompanies customs documents in which the exact weight of the imported products is stated.

Section 4 (References of applicable conservation and management measures) refers to the conservation and management measures related to the species for which the catch certificate is issued, which the flag State concerned has adopted. It can either be national measures that vessels have to respect, measures adopted by an RFMO etc. A brief description of the measures should be given (e.g. subject to fishing license, quota, restricted fishing gear). References need to be quoted according to national law. This information is to be provided by the operator;

Section 5 (name of master/signature/seal): The catch certificate has to be signed and sealed or stamped by the master of the fishing vessel. In cases where the catches are not landed in a port of the flag State and therefore can not be physically accompanied by the catch certificate, a representative of the master can sign the catch certificate and request the validation. Who can act as representative of a master has to be determined according to the national situation. Electronic signature can be accepted as long as the European Commission is notified that electronic signatures will be carried out. This applies to transfers of documents too. It is possible to transfer documents electronically, but the EC need to be advised of this so that EU Member States are informed accordingly. The seal or stamp is necessary to underline the identification the person signing the catch certificate.

Section 6 and **section 7** are only to be filled in if appropriate. They refer each to one possible situation, and may thus be used alternatively.

Section 6 (declaration of transshipment at sea) is to be filled jointly by the masters of the fishing vessel and of the receiving vessel (or their representatives).

Section 7 (transshipment authorisation within a port area) is to be filled in by the competent authority responsible for the control of the transshipment, in accordance to the national organisation structure in that country. If a country does not authorise transshipments the respective field does not apply. If transshipment is authorised it is up to the third country to organise its control and validation procedure and to notify its relevant competent authority/ies to the European Commission. The notified competent authority for this control has to sign this part of the catch certificate.

Section 8 is to be filled, signed and sealed or stamped by the exporter of the consignment, who also has to provide the transport details of **section 10** in **Appendix I** to the catch certificate. The

exporter is the third country operator who is responsible for exporting the fish declared in box 3 to another country.

Section 9 (Flag state authority validation): It is the responsibility of the competent flag State authority to validate a catch certificate for products which are exported to the Community and which derive from catches complying with the conservation and management measures in place. It has therefore full competence for accomplishing these tasks. In cases where the catches are not landed in the port of a flag State and therefore can not be physically accompanied by the catch certificate, a representative of the master can either request the validation of the catch certificate or the communication and transmission can be carried out by electronic means. The use of electronic means by flag State authorities provided for by Article 12 has to be notified to the European Commission. The validating authority is the same as referred to in section I as it needs to be notified to the European Commission as being the competent authority for this purpose.

The exporter has to submit the catch certificate, containing all the information required in **sections 2 to 8 and 10** and in **Appendix I** (and **sections 6 and/or 7** in the event of transshipment) to the competent validation authority of the flag State. If the authority is satisfied with the information in the catch certificate and has no grounds to doubt its exhaustiveness and accuracy and the compliance with applicable management and conservation measures, it may complete **section 1 (document number, validating authority)** and **section 9 (flag State authority validation)**. The catch certificate is now validated and can be returned to the exporter. The validating authority keeps a copy of thereof, together with any documentation verified and used for its validation, for a period of at least three years starting from the date of validation. This period can be longer according to national rules.

If at the time of submission of the catch certificate by the exporter, the competent flag State authority does not have all the elements allowing it to ensure the reliability of the information which appears in that certificate and/or of the compliance with applicable conservation and management measures, the authority should carry out any checks or verifications it considers appropriate to determine if it can, or not, validate the document.

Section 11 (importer declaration) is to be filled in by the importer in the Community prior to the submission of the catch certificate to the competent authority designated by the relevant EU Member State of importation. The IUU Regulation does not necessarily require the VAT ID number or another identification number of the importer. However, importers should introduce such number if required by the specific EU Member State.

In case of indirect importation either with or without prior processing the **documents referred to in Article 14(1) and (2)** of the IUU Regulation have to be submitted together with the catch certificate. According **references** have to be made related to the documents provided.

Section 12 (import control – authority) is to be filled in by the competent EU Member State's authority which will have to check the certificate and where appropriate, carry out verifications as laid down in Articles 16 (1) and 17.

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| <u>EUROPEAN COMMUNITY RE-EXPORT CERTIFICATE</u> | | | |
|--|------------------------------|--|--|
| Certificate number | Date | Member State | |
| 1. Description of re-exported product: | | Weight (kg) | |
| Species | Product code | Balance from total quantity declared in the catch certificate | |
| 2. Name of re-exporter | Address | Signature | Date |
| 3. Authority : | | | |
| Name/Title | Signature | Date | Seal/Stamp |
| 4. Re-export control: | | | |
| Place: | Re-export authorised* | Verification requested* | Re-export declaration number and date |

* Tick as appropriate.

This part of the catch certificate only applies for re-exports of products from the Community to a third country as referred to in Article 21 of the IUU Regulation and will only be filled out by EC operators and authorities. It ensures the full traceability of the products concerned. The exporter has to prove that the products to be re-exported have been imported with a validated catch certificate.

It is up to the competent authority in the EU Member State from which the re-exportation is to take place to authorise the re-export. No validation of a third country is necessary at this stage.

Sections 1 and 2 are to be filled in by the re-exporter in the EC.

Certificate number: to be the same number as in the first part of the catch certificate.

Member State: EU Member State from which the re-exportation is to take place.

Section 1 (description of product): The product is described by using the species name and the product code as mentioned on the catch certificate validated by the flag State. The national customs codes implemented in third countries are usually based upon the HS 6-digit code likewise the CN codes implemented by the EC. Access to the customs codes of third countries is publicly available on line (see page "Applied Tariffs Databases" of the website <http://mkaccdb.eu.int>). If more detailed information is to be given (e.g. for processed products) the fields can be extended or an attachment can be annexed to the certificate.

Weight (kg): this is the weight of the products to be re-exported.

Balance from total quantity declared in the catch certificate: needs also to be mentioned by the re-exporter, since not necessarily the full quantity of the consignment for which the catch certificate has been validated by the third country's authority is to be re-exported as a whole.

Sections 3 and 4 are to be filled in by the competent authority of the EU Member State from which the re-exportation is to take place.

Section 3 (authority): Specific information on the respective EU Member State authority (name, signature, date, seal or stamp).

Section 4 (re-export control): Information to be provided by the competent authority on the authorisation of the re-export.

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The fields "**re-export authorised**" and "**verification requested**" are only to be filled in where applicable.

The field "**re-export declaration number and date**" refers to the number and the date of the custom declaration issued for the re-exportation of the product. It is important to note that it applies to all forms of export and is not limited to any specific customs exportation procedure.

Appendix I TRANSPORT DETAILS

| | | | | |
|--|---|-------------|----------------|------------------|
| 1. Country of exportation Port/airport/other place of departure | 2. Exporter Signature: | | | |
| Vessel name and flag Flight number/airway bill number Truck nationality and registration number Railway bill number Other transport document: | Container number(s): list attached | Name | Address | Signature |

This appendix aims at preventing that a catch certificate validated for certain fishery products to be exported be misused for other products not covered by a catch certificate, by ensuring full traceability. It has to be filled in and signed by the exporter.

The information to be provided in this appendix relates to the transport details of the fishery products from the third country having validated the catch certificate to the next destination, an EU Member State in case of direct importation or an intermediate country in case of indirect importation to the Community.

If the products are directly transported to this destination from sea either by the fishing vessel having done the catch or a receiving vessel following transshipment at sea (where such operations are allowed by the validating flag State) the information in **Section 1** has to be the name and flag of the fishing vessel in Section 2 or of the receiving vessel in **Section 6** of the catch certificate, where appropriate).

Name, address and signature in **Section 2** refer to the exporter having requested the validation of the catch certificate.

**Statement under Article 14(2) of Council Regulation (EC) No 1005/2008 of 29 September 2009
establishing a Community system to prevent, deter and eliminate illegal, unreported and
unregulated fishing**

I confirm that the processed fishery products: ¹ (product description and Combined Nomenclature code) have been obtained from catches imported under the following catch certificate(s):

| Catch certificate number | Vessel name(s) and flag(s) | Validation date(s) | Catch description | Total landed weight (kg) | Catch processed (kg) | Processed fishery product (kg) |
|--------------------------|----------------------------|--------------------|-------------------|--------------------------|----------------------|--------------------------------|
| 2 | 2 | 2 | 2 | 2 | 3 | 4 |
| | | | | | | |
| | | | | | | |
| | | | | | | |

Name and address of the processing plant

.....
.....

Name and address of the exporter (if different from the processing plant)

.....
.....

Approval number of the processing plant 5

Health certificate number and date

.....

| | | | |
|---|------------|-------|--------|
| Responsible person of the processing plant : 6 | Signature: | Date: | Place: |
|---|------------|-------|--------|

Endorsement by the competent authority: ...7.....

| | | | |
|--------------------|------------------------------|-------|--------|
| Official: 8 | Signature and seal: 8 | Date: | Place: |
|--------------------|------------------------------|-------|--------|

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The statement in Annex IV of the IUU Regulation has to be provided for indirect importations to the Community with prior processing. It has to be filled in by the processor in the third country other than the flag State. Annex IV serves as template, the boxes provided can be extended if needed. The importer has nothing to declare on the Annex IV statement.

- 1 Processed product description and code in accordance with the Combined Nomenclature code (see reference in the annex to the handbook) catch certificate.
- 2 Information to be taken from the catch certificate concerned
- 3 Quantity of the imported catch used for processing
- 4 Quantity of the processed product
- 5 References to the SANCO list of approved processing plants and the health certificate.
- 6 Up to here the processing statement has to be filled in by the processing plant. The responsible person must provide his name and signature.
- 7 Name of the authority in the third country of processing competent for the endorsement of the statement (to be filled in by this authority)
- 8 The official endorsing the statement has to mention his name and has to sign and seal or stamp the document.

- ***Q.: How can a processing plant complete Annex IV if it uses several different species from different catches for the processing?***
- *A.: In this case, all species and catches used have to be mentioned in the Annex IV statement. The table provided in the form can be extended for this purpose.*
- ***Q.: Can the competent authority endorsing the statement in Annex IV be the same as the one issuing the health certificate?***
- *A.: This depends on national organisation but it must be the competent authority responsible for the monitoring of imported raw materials for processing and re-exportation.*
- ***Q.: What to do if a consignment of processed products comprises products processed by several processing plants from imported fish?***
- *A.: Each plant has to establish an Annex IV statement.*

European Community Catch Certificate**Simplified Form for fishery products fulfilling the requirements in Article 6 of the Commission Implementing Regulation**

| <u>(i) EUROPEAN COMMUNITY CATCH CERTIFICATE – Simplified Form for fishery products fulfilling the requirements in Article 6 of this Regulation</u> | | | | | |
|---|--------------|--|---|------------------------|-------------------------------|
| Document number | | | Validating Authority (name, address, tel., fax) | | |
| 1. Description of Product | | 2. References of applicable conservation and management measures | | | |
| Species | Product code | | Verified Weight Landed (kg) | | |
| 3. List of vessels who have provided catches and the quantities by each vessel (name, registration number, etc. annexed): | | | | | |
| | | | | | |
| 4. Name, address, tel. and fax of Exporter | | Signature | Date | | Seal (stamp) |
| 5. Flag State Authority Validation: | | | | | |
| Name/Title | | Signature | Date | Seal (Stamp) | |
| 6. Transport details : (see Appendix) | | | | | |
| 7. Importer Declaration: | | | | | |
| Name and address of Importer | | Signature | Date | Seal (stamp) | Product CN code |
| 8. Import control: Authority | | Place | Importation authorised* | Importation suspended* | Verification requested - date |
| Customs declaration (if issued) | | Number | | Date | Place |

(*) Tick as appropriate

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The Commission Implementing Regulation provides for a simplified catch certificate which can be used for catches obtained by third country fishing vessels which meet the following criteria: (a) having an overall length of less than 12 metres without towed gear or

(b) having an overall length of less than 8 metres with towed gear or

(c) without a superstructure or

(d) of less than measured 20 GT.

Only for catches obtained by such vessels and which are only landed in the flag State of those vessels and which together constitute one consignment to be exported to the EC the catch certificate according to Annex II of the IUU Regulation can be replaced by this simplified catch certificate. The advantage would be that the exporter can request the validation of the simplified certificate which the fishermen do not have to sign. However, the exporter must provide information on the fishing vessels and the catches (species, quantities). It must be noted that it is the responsibility of the validating third country authority to verify if the conditions for the use of the simplified catch certificate are fulfilled. However, the list of vessels attached might provide indicators for further checks and verifications to the competent authorities in the EU Member States.

The boxes "**document number**" and "**validation authority**" are used to identify the document and the authority which validates it and are therefore reserved for that purpose and have to be filled in by the validating authority. They correspond to the same boxes in the Annex II certificate.

The "**document number**" may include the "ISO code for each Flag State", "Identifying code for the competent authority", "Year of validation" and "Number in continuous series". However, no fixed template may be imposed as the structure of the document number can vary according to different factors in different flag States (one or more competent authorities, number of certificates, etc.). It is up to each country to decide on the structure of the document number. It is suggested that each authority be identified by a specific code to be given by the country. As an illustration:

ISO code/authority code/year/number in continuous series (number of digits to be decided by each country in relation to the anticipated number of certificates)

The information required such as "**Name**", "**Address**", "**Tel.**" "**Fax**" refers to the validating authority and is to be provided by this authority.

N.B.: The reference number of the health certificate or an origin certificate can not be used as document number, as this is a separate document, established to serve different purposes.

Section 1 (description of product): This section corresponds to section 3 of the Annex II certificate, but is slightly simplified. Still, the product is described by using the species name and the product code is the customs code used in the nomenclature implemented by the third country; they are all based upon the 6-digit code of the Harmonised System and the EC makes available on-line all the national nomenclatures to the public on the page "Applied Tariffs Database" of the website <http://mkaccdb.eu.int>. If more detailed information is to be given (e.g. for processed products) the fields can be extended or an attachment can be annexed to the certificate. The lay out of the catch certificate is to be

set up by the third country. Thus, the format of the certificate may be designed according to national needs.

Species: Information must be available to the operators as well for other purposes, e.g. quality control, price negotiations and the species used can usually be identified. This part of the catch certificate has to be filled in by the operator, not by the authorities. In case of processed products several species can be mentioned.

Product code: The code is only to be mentioned for the products to be exported. This information is to be provided by the operator. For its part, the EC will use the 8 digit Combined Nomenclature (CN) code based on the 6 digit codes of the Harmonized Commodity description and Coding System (HS) for the catch certificates validated in respect of exported EC catches. It is suggested that each country uses the national customs codes as they are usually based upon the HS. It will be the easiest way for the common understanding on the product mentioned on the catch certificate.

Verified weight landed: To be provided by the validating authorities, if catches are weight at landing. It will be up to the flag State to decide if they accept a certain discrepancy in the estimated and verified weights indicated in the catch certificate.

N.B.: The **kind of weight** (net weight/gross weight) is not to be determined, since this part of the catch certificate contains the information which the flag State authorities validate so it should be according to the flag State's national rules. The weight here is not necessarily the weight of the imported product. Remember: the catch certificate accompanies customs documents in which the exact weight of the imported products is stated.

Section 2 (References of applicable conservation and management measures) corresponds to section 4 of the Annex II certificate and refers to the conservation and management measures related to the species for which the catch certificate is issued, which the flag State concerned has adopted. It can either be national measures that vessels have to respect, measures adopted by an RFMO etc. A brief description of the measures should be given (e.g. subject to fishing license, quota, restricted fishing gear). References need to be quoted according to national law. This information is to be provided by the operator;

Section 3 (List of vessels that have provided catches and the quantities by each vessel): This information has to be given by the exporter and replace sections (2) and (5) of the Annex II certificate. The exporter has to provide all available information on the vessels concerned, such as names, registration numbers, etc, together with the respective product quantities contributed by each vessel. If necessary this information can be stated on a separate sheet to be annexed to the simplified catch certificate. It is important to note that the simplified catch certificate does not need to be signed by the masters of the fishing vessels concerned.

Section 4 corresponds to section 8 of the Annex II certificate and is to be filled, signed and sealed or stamped by the exporter of the consignment, who also has to provide the transport details of **section 6 in Appendix I** to the simplified catch certificate. The exporter is the third country operator who is responsible for exporting the fish declared in box 1 to another country.

Section 5 (Flag state authority validation): It is the responsibility of the competent flag State authority to validate the simplified catch certificate for products which are exported to the Community and which derive from catches complying with the conservation and

management measures in place. It has therefore full competence for accomplishing these tasks. As explained before, it is as well up to this competent authority to determine if all conditions for the use of the simplified catch certificate are met.

As for the Annex II certificate the exporter has to submit the simplified catch certificate, containing all the information required in **sections 1 to 4 and 6** and in **Appendix I** to the competent validation authority of the flag State. If the authority is satisfied with the information in the simplified catch certificate and has no grounds to doubt its exhaustiveness and accuracy and the compliance with applicable management and conservation measures, it may complete **the fields "document number" and "validating authority"** and **section 5 (flag State authority validation)**. The simplified catch certificate is now validated and can be returned to the exporter. The validating authority keeps a copy of thereof, together with any documentation verified and used for its validation, for a period of at least three years starting from the date of validation. This period can be longer according to national rules.

If at the time of submission of the catch certificate by the exporter, the competent flag State authority does not have all the elements allowing it to ensure the reliability of the information which appears in that certificate and/or of the compliance with applicable conservation and management measures, the authority should carry out any checks or verifications it considers appropriate to determine if it can, or not, validate the document.

Section 7 (importer declaration) corresponds to section 11 of the Annex II certificate and is to be filled in by the importer in the Community prior to the submission of the catch certificate to the competent authority designated by the relevant EU Member State of importation. The IUU Regulation does not necessarily require the VAT ID number or another identification number of the importer. However, importers should introduce such number if required by the specific EU Member State.

In case of indirect importation either with or without prior processing the **documents referred to in Article 14(1) and (2)** of the IUU Regulation have to be submitted together with the catch certificate. According **references** have to be made related to the documents provided.

Section 8 (import control – authority) corresponds to section 12 of the Annex II certificate and is to be filled in by the competent EU Member State's authority which will have to check the certificate and where appropriate, carry out verifications as laid down in Articles 16 (1) and 17.

The re-export certificate and the transport details in the appendix 1 have not been changed compared to the Annex II certificate.

5.17 Flow of the catch certificate

It is the responsibility of the exporter to submit the catch certificate, containing all the information required in sections 2 to 8 and 10 and in Appendix I (and sections 6 and/or 7 in the event of transshipment) for validation to the competent authority of the flag State. The exporter is the third country operator who is responsible for exporting the products declared in section 3 of the catch certificate to another country. Exporters should be aware that even if products are exported to non-EU countries but are destined for the EU market at a later stage (indirect importation), a catch certificate validated by the flag State is necessary.

Below the flow of the catch certificate is illustrated step by step. The examples should be considered as guidelines. The exporter may fill in the boxes concerning him before or after the master or representative of the fishing vessel. He has the responsibility to ensure that the validated catch certificate follows the respective products and that it is transmitted to the importer in due time.

Step 1

The exporter requests the master of the fishing vessel (or his representative) to fill in sections 2 to 5 or to provide to him the information for section 2 to 4 and fill in section 5 and in case of transshipment at sea section 6. If transshipment has taken place in port, the master or representative of the vessel should ensure that the port authorities fill in section 7. Then the master or representative returns the catch certificate to the exporter.

Step 2

The exporter then fills in section 8 and 10 including Appendix 1 and submits the catch certificate for validation to the competent flag State authority. The competent authority in the flag State fills in section 1 and the boxes "document number" and "validating authority" and validates the catch certificate in section 9 if the information provided by the exporter allows doing so. If the full information required for Appendix I cannot be available at the time of the submission of the catch certificate for validation (for instance, if the container numbers or the references of the transport document are still not known), the validation and the return of the validated catch certificate should be deferred till Appendix I is completed.

The validated catch certificate is then returned to the exporter. The validating authority keeps a copy of thereof, together with any documentation verified and used for its validation, for a period of at least three years starting from the date of validation. This period can be longer according to national rules.

Step 3

Once the exporter gets back the validated catch certificate, he must transmit this certificate along with the transport details to the importer either in the Community or in cases of indirect importation to the importer in another third country. In cases where the products are landed directly in a port of an EU

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Member State, section 10 and Appendix 1 does not need to be filled in. It is recommended that the exporter keeps a copy of the transmitted catch certificate for a period of at least 3 years.

Case A: Direct export from the flag State to the EC either with landing by the catching fishing vessel in a port of the flag State or of an EU Member State, or by any other mean of transportation.

Step 4A

The EC importer fills in section 11 and submits the certificate with appendix 1) to the competent authority in the EU Member State of importation, which checks the certificate, fills in section 12 and either authorizes or suspends importation.

Case B: Indirect exportation without prior processing to the EC from a third country other than the flag State

Step 4B

The exporter in the third country other than the flag State must submit to the EC importer the catch certificate with its Appendix 1 and documented evidence that the fishery product did not undergo operations other than unloading, reloading or any operations designed to preserve the product in good and genuine condition. The latter documentation can either be a document issued by the authorities in that third country stating this or a single transport document such a combined bill of lading, where the details on the different vessels which will be used to transport the products from the flag State to the EC via another third country are known from the beginning of the transport operation.

Step 5B

The EC importer fills in section 11 and submits the certificate with appendix 1 and the documented evidence to the competent authority in the EU Member State of importation, which checks the certificate, fills in section 12 and either authorizes or suspends importation.

NB. In the case of EC catches transported to the Community from a third country where they did not undergo operations other than unloading, reloading or any operation designed to preserve them in good and genuine conditions, and remained under the surveillance of the competent authorities in that third country, the T2M procedure continues to apply in accordance to Articles 325 to 336 of Council Regulation (EC) No. 2454/93 to confirm the Community status of the products.

Case C: Indirect exportation with prior processing to the EC from a third country other than the flag State

Step 4C

The third country processor must ensure that a processing statement according to Annex IV to the IUU Regulation be established for the processed fishery products

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prior to their exportation to the EC. The processor fills in the statement up to the section "responsible person of the processing plant/signature/date/place". Then he submits the statement plus copies or originals of the accompanying catch certificate(s) for endorsement by the competent authority in his country prior to the exportation to the EC.

Step 5C

If the competent third country authority in the country of processing has no conflicting information, it endorses the statement by filling in the section "endorsement by the competent authority" and sends it back to the exporter/processor.

Step 6C

The exporter in the third country of processing other than the flag State must forward to the EC importer the endorsed processing statement together with copies or originals of the respective catch certificate(s) in due course for allowing their submission to the Member State competent authorities in accordance with the deadlines of 3 working days or shorter where laid down in the Implementing Regulation.

Step 7C

The EC importer fills in section 11 of each annexed certificate and submits the processing statement together with all annexed catch certificates to the competent authority in the EU Member State of importation, which checks the documents, fills in section 12 of the catch certificates and either authorizes or suspends importation.

N.B. Case C applies accordingly, if the processed products are obtained partly or fully from EC catches. In this case the relevant catch certificates have to be validated by the competent authority of the flag EU Member State.

Case D: Re-export from the EC of fishery products previously imported from a third country

The initial import will be subject to one of the scenarios above. When the fishery products are about to be re-exported, the re-exporter in the EC fills in sections 1 and 2 of the re-export certificate and submits it for authorization to the competent authority in the EU Member State from which the exportation will take place.

The competent authority of that EU Member State fills in sections 3 and 4 and either authorizes or suspends the re-exportation.

5.18 Frequently asked questions on the practical application of the catch certification scheme

(A) Scope, formalities, distribution of tasks

- ***Q.: Can the European Commission consider a step-by-step introduction to the scheme depending on species, regions or countries? Can there be any exemptions to the catch certification scheme?***
- ***A.: The IUU Regulation will apply in its entirety from 1 January 2010 with no exceptions. It being based on specific species, regions or countries, a step-by-step introduction would unavoidably generate trade distortions and the risk of entry of products stemming from IUU fishing activities, which would be detrimental to operators abiding with conservation and management rules. The catch certification scheme has been adopted to provide a legal support for a verification of compliance with conservation and management measures on a consignment basis. It does not allow the introduction of "catch-certificate-exempt arrangements" either for "responsible fishermen" or "responsible business-partners" or "responsible countries".***

- ***Q.: What are the costs arising of the catch certification scheme?***
- ***A.: Since the catch certification scheme is based upon information already available to stakeholders and authorities and used by them within the context of their own activities, costs, if any, should be minimal.***

- ***Q.: What language does the catch certificate have to be in?***
- ***A.: The catch certificate must be in one of the official Community languages. The flag State however is free to create bilingual versions and inform the European Commission thereof.***

- ***Q.: Is the EU catch certificate in Annex II of the IUU Regulation a binding template or is it possible to use another form as long as the information is there?***
- ***A.: Annex II is legally binding in its content whereas the lay out of the catch certificate is up to the third countries' authorities and the EU Member States to decide upon the format which could be designed according to national needs. It is however important that all information stated in Annex II is provided and that the same sequence of the information is kept. Third countries are asked to communicate a template of their lay out to the European Commission which will inform the EU Member States accordingly within the framework of the notification procedure under Article 20 (1) to (3) of the IUU Regulation. Operators are not authorised to change or amend this template.***

- ***Q.: Is the catch certificate an integrated part of the Customs Document?***
- ***A.: The catch certificate will be an annex to the Customs Document (Single Administrative Document, Articles 205 to 215 of***

Council Regulation (EC) 2454/93), just as in the case of CCAMLR or ICCAT certificates. A specific code will apply for all catch certificates presented as supporting document to a customs declaration at importation. This applies for catch certificates under the EC catch certification scheme as well as for catch documentation schemes under RFMOs.

– ***Q.: Do the catch certification requirements apply to all fishery products, including those under a RFMO documentation scheme?***

– *A.: The IUU Regulation is a non discriminatory instrument and the certification scheme therefore applies to all fishery products (except those listed in Annex I of the IUU Regulation), in as much as there is a link with the EC through trade. Catch documentation schemes adopted by RFMOs and other international organisations may be recognised as an alternative to the EC catch certificate provided in Annex II of the IUU Regulation for the relevant species. A list of such recognised documentation schemes is included in the Commission Implementing Regulation.*

– ***Q.: Can national catch certification schemes be recognised?***

– *A.: In accordance to Article 12 (4) of the IUU Regulation electronic traceability systems ensuring the same level of control by authorities can be recognised if they meet all objectives and requirements of the catch certification scheme. For this purpose, an agreement in form of an agreed record according to Article 20 (4) should be signed between the European Commission and the third country concerned, which will be integrated in the Commission Implementing Regulation to inform the EU Member States and all stakeholders. This is an open procedure which could be launched at any time.*

– ***Q.: Do EC vessels operating in EC waters need a catch certificate, too?***

– *A.: No catch certificate is required for products which stay in the EU. However, those catches fall under the control scheme of the Common Fisheries Policy, which is stricter than the provisions in the IUU Regulation. When it comes to exports of Community catches there are two situations:*

1) If the exported catches are subject to processing in a third country and the processed products will be re-exported to the Community: a catch certificate is required whether the third country would ask for it or not. If these catches are not accompanied by a catch certificate, the consignments exported from that country will not be allowed to be imported back into the Community.

2) If the catches are exported for consumption in a third country: a catch certificate is only necessary if the third country requires one. If they do, EU Member States will be made aware of it.; To that end, within the framework of the cooperation laid down in Article 20(4), all third countries have been requested by the

Commission to let know if they intend to require a catch certificate in accordance with its Article 15.

- ***Q.: Who would process the catch certificate and at what stage?***
- *A.: The catch certificate is to be completed by the exporter on a consignment basis before export. The exporter will submit the catch certificate, containing all the information required in sections 2 to 8 and 10 and in Appendix I (and sections 6 and/or 7 in the event of transshipment) to the competent authority of the flag State. If the authority is satisfied with the information in the catch certificate and has no grounds to doubt its exhaustiveness and accuracy and the compliance with applicable management and conservation measures, it may complete section 1 ("Document Number" and "Validating Authority") and section 9 ("Flag State Authority Validation"). The catch certificate is thus validated and can be returned to the exporter. Once he has received the validated catch certificate from the competent authority, the exporter must make sure that its original be made available to the importer in the European Community who will have to submit it to the authorities of the EU Member State of importation, irrespective of the ways by which the consignment concerned will be dispatched.*

If, at the time of submission of the catch certificate by the exporter, the competent flag State authority does not have all the elements allowing it to ensure the reliability of the information which appears in that certificate and/or of the compliance with applicable conservation and management measures, the authority should carry out any check or verification it considers appropriate to determine if it can validate the document.

- ***Q.: At what time will the validation of catch certificates take place? How can this be done for vessels operating far away from their flag State or at high seas?***
- *A.: The validation of the catch certificate will be carried out by the flag State as soon as all necessary information is available to them. This includes information and documentation on the export. Where the catches are not landed in the port of the flag State and therefore can not be physically accompanied by the catch certificate 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 is authorised under Article 12, subject to the administrative cooperation with third countries under Article 20(4).*
- ***Q.: Which authority validates the catch certificates for catches taken by foreign vessels in the EEZ of another country?***
- *A.: It is always the flag State that must validate the catch certificate. However, the IUU Regulation does not impose any obligations on how the validation must be carried out. The organisation of the validation procedure is the competence of the third country and depends on the national control systems.*

- ***Q.: Can the catch certificate be communicated and transmitted by electronic means?***
- *A.: Yes, The catch certificate can either be physically circulated or be transmitted by electronic means (between the exporter and the importer) as laid down in Article 12(4) of the Regulation. The use of electronic means by competent flag State authorities must be notified to the European Commission.*

- ***Q.: Does the master need to sign the catch certificate or can a representative of the vessel carry out this task?***
- *A.: A legal representative of the master can request the validation of the catch certificate and can sign it.*

- ***Q.: Does the catch certificate have to follow the fishery product physically like the health certificate?***
- *A.: No, the catch certificate contains information on the product, but it does not have to follow the product physically. It needs to be available to the competent authorities of the EU Member State of importation three days in advance of arrival of the products. Shorter dead-lines for products arriving by other means of transport than vessels are laid down in the Commission Implementing Regulation.*

- ***Q.: What is the meaning of the Approved economic operator?***
- *A.: The concept of the Approved economic operator (APEO) is laid down in Article 16 of the IUU Regulation and in the Commission Implementing Regulation. It concerns only the importers in EU Member States and not operators in third countries. The APEO scheme does not provide a specific privilege as the only difference is the place where verifications might be carried out and that, rather to submit the catch certificate in advance, APEO have to advise the authorities on all incoming products subject to the scheme in accordance with the same deadlines as for the submission of a catch certificate. The status may be granted by EU Member States' authorities upon request and apply to operators having met specific criteria and who already have a status as an authorised economic operator (AEO) in accordance with the Customs Code. The fact that a Community importer is an "approved economic operator" is not of any relevance to exporters.*

- ***Q.: Do aquaculture products or other exempt products need to be accompanied by any documentation?***
- *A.: No documentation is required for aquaculture products or other products excluded under Annex I. All third countries concerned by aquaculture products have been requested by the European Commission to provide in advance suitable information to assist the competent authorities in the EU Member States for distinguishing aquaculture products obtained from fry or larvae from such products obtained from wild catches as the latter ones are not exempted. However, such information received through the consultation is not legally binding and can only be considered as supporting information which would help competent EU Member*

States' authorities verifying the correct application of the catch certification scheme.

– ***Q.: Do products in transit in a Community port, not going into the Community market, have a catch certificate?***

– *A.: No, only fishery products imported to the EC must be accompanied by a validated catch certificate. This excludes products in transit in an EC port; as such products are not imported to the EC.*

– ***Q.: Is a catch certificate required for catches obtained by vessels flying the flag of an EU Member State which are in transit in a third country and accompanied by a T2M form?***

– *A.: Any Community product in transit in a third country on its way to the Community should be accompanied by a T2M form. If a T2M exists the products need not to be accompanied by a catch certificate as they are not imported by any third country. The nationality or the means and type of transport are not relevant. If there is no T2M then a catch certificate is required. The same counts if such products upon arrival in the EU are shipped/exported to a third country which demands a catch certificate under Article 15 or in any case, if the products are destined for re-importation from this third country into the EC at a later stage.*

– ***Q.: Does the EC importer have to submit any additional documents than the catch certificate in a case of indirect importation to the EC?***

– *A.: In case of indirect importation to the EC the importer must, in addition to the catch certificate, submit a document declaring that the products have not undergone operations other than unloading, reloading or any operation designed to preserve them in good and genuine condition, and remained under the surveillance of the competent authority of that third country. Detailed information of this document can be found in Article 14(1) of the IUU Regulation.*

If the products have been processed in a country other than the flag State the authority must submit a statement established by the processing plant in that third country and endorsed by its competent authority/ies in accordance with the form in Annex IV of the IUU Regulation. Detailed information can be found in Article 14(2) of the IUU Regulation. In both cases, this documentation aims at ensuring that the products to be imported to the EC stems from the catches referred to on the validated catch certificates.

– ***Q.: How can an importer be sure to have a valid catch certificate?***

– *A.: The role of the importer is to ensure that the imported products are accompanied by the validated catch certificate and that he can proof their legality. Information on the competent authorities for the validation of catch certificates will be published by the European Commission and is therefore available to the importers.*

As the catch certificate has to be validated in respect of a given consignment, its importer will have the original document, for submission to the authorities of the Member State of importation. In the case of products processed in another third country than the flag State, copies of the catch certificate(s) may be attached to the statement by the processor if the whole quantity of catch is not used for the consignment of processed products. Importers have to take care to receive good quality copies of the certificates, and there is always the possibility for a Member State authority to ask for the original.

– ***Q.: What are the deadlines for the submission of catch certificates?***

– *A.: Catch certificates for consignments (except fresh fish) arriving by fishing vessels must be submitted 3 days in advance. The situation of consignments shipped by airfreight or any other means of transportation than a ship is taken into consideration in the IUU Regulation and the deadlines for the submission of catch certificates have been adapted in the Commission Implementing Regulation. Catch certificates for consignments arriving by air, road or rail must be submitted either 2 or 4 hours which is in line with the deadlines for submitting entry summary declarations.*

– ***Q.: At what stage do the competent authorities in the EU Member States verify the catch certificate?***

– *A.: According to Article 16 of the IUU Regulation verifications and documentary checks on the catch certificate by the competent authorities in the EU Member States will be carried out before the products are either released or denied entry to the territory of the Community.*

– ***Q.: Does a country need to establish agreements with other countries if their vessels land catches in a third country, for the purpose of validation of catch certificates?***

– *A.: No, it is always the responsibility of the flag State to validate catch certificates.*

– ***Q.: Which country validates the catch certificate if the vessel is chartered to another country?***

– *A.: Only a flag State can validate a catch certificate for direct and/or indirect trade to the EC. It is the responsibility of all flag States to exercise its jurisdiction and control over their vessels (UNCLOS, art 94). This applies to vessels chartered to another country as well. The catch certificate may be established and validated using electronic means. This means that a flag State may validate the catch certificate electronically on request from an exporter in another country (where the chartered vessel operates) and submit the validated certificate electronically back to the exporter. Bilateral contacts may be used between the countries concerned for the purpose of validations under the IUU Regulation.*

- ***Q.: Are any agreements envisaged between processing countries and flag States for the purpose of validation of catch certificates?***
- *A.: The European Commission will not establish special agreements between flag States and processing countries as this would interfere with the commercial relations between those countries. It is up to the processing country to ensure that all raw materials which will be processed and traded to the EC are accompanied by validated catch certificates for the relevant products. To complement this information, the processing factory have to fill out the statement provided in Annex IV which must be endorsed by its competent authority in the processing country before the products can be traded to the EC in order to ensure traceability of all processed products entering the EC.*

- ***Q.: What is the level of liability of a competent authority when validating a catch certificate and how can a country ensure that it will receive catch certificates from other countries for products to be exported to the EC?***
- *A.: Competent authorities may validate that the catch was done in compliance with conservation and management measures and that, at the time of validation, it had no conflicting information suggesting otherwise. If a EU Member State would have evidence suggesting otherwise, the competent authority of that third country would be notified, but not held liable. Information on all countries having notified their competent authority/ies for the purpose of validation will be made public for the benefit of all stakeholders. In that way, countries will know which countries can validate catch certificates.*

- ***Q.: How will EU Member States organise verifications of catch certificates on import?***
- *A.: Once a catch certificate, re-export certificate or related documents have been submitted they may be verified by a competent EU Member State authority. Authorities of EU Member States may carry out verifications as they deem necessary, under risk management, or at random. Verifications may consist 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 EU Member States may request the assistance of the competent authorities of the flag State or of the processing third country when they has well founded doubt about the validity of the catch certificate or its compliance with conservation and management rules.*

- ***Q.: When does a third country authority have to verify a catch certificate?***
- *A.: The IUU Regulation requires flag States to validate catch certificates and to carry out verification upon request by EU Member States. However, it is up to each third country to organise its own system of verification for catch certificates to be validated and to decide when and how such action will be taken. The*

verification of an already validated catch certificate, on request of a Member State authority, shall be completed within 15 days of the date of the verification request and an additional deadline of 15 days may be requested.

- **Q.: How will the verification be carried out if a product enters the EU in one country for transit only but its final destination is another EU Member State? Where does the verification take place – in the Member State of first entry or in the Member State of final destination?**
- **A.:** In general the competent authority of the EU Member State of final destination will be responsible for the verification under Article 19. This is as well the authority to which the catch certificate shall be submitted according to Article 16. Since transport details have to be mentioned this will be evident for the authorities in the EU Member State of first entry. However, when it comes to transit there are two situations to be considered by the EU Member States:

1) Landings by fishing vessels: The catch certificate number is mentioned on the landing declaration and the certificate itself might not be attached. The fact that the products are declared under a transit regime at the first point of entry should however not be interpreted by an EU Member State as it will have no obligation to inspect the vessel. The catch certificate is part of the information required under Article 7(1) for authorisation to access the port. This can be subject to an inspection, which has to be decided in accordance with Article 9. In this respect no difference will be made amongst fishing vessels based upon the customs regime (transit or direct importation in the EU Member State of first entry). Otherwise, it would be easy to avoid a vessel inspection just by declaring the fish for transit.

2) Arrival of fish by any other means of transport: there is then no requirement for inspection of a vessel under Articles 9 to 11, and Article 19(1) will be applied. This means that the EU Member State of final destination shall implement the provisions of Articles 16, 17 and 18.

(B) Consignments, processing, re-exportation

- **Q.: How to deal with consignments composed of different species stemming from the same catch?**
- **A.:** A catch certificate should be requested from the exporter on a consignment basis, meaning that if more species are included in one consignment stemming from one catch by one vessel, one catch certificate can be used for the different/several species.
- **Q.: How must the catch certificate be filled in for a mixed consignment composed by several products from different catches?**

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- *A.: The catch certificate is to be validated for fish caught by a given vessel and exported to the EC in one consignment. If this is composed by products stemming from different catches obtained by different vessels one catch certificate per catch has to be attached. However, if the consignment is composed by catches coming 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 Annex II and the vessel masters are not required to sign the certificate. The simplified catch certificate and the criteria for its application are provided in the Commission Implementing Regulation.*

- ***Q.: What happens if a consignment is sold to different importers or divided after importation in another third country and sold to different processors?***
- *A.: In this case the submission of the catch certificate will depend on the specific nature of the commercial transaction. If, from the very beginning, it is clear that the exporter will divide the consignment and sell it to different importers, he may request the validation of one separate catch certificate for each of these respective transactions, as they will each constitute an single consignment (see definition in Article 2(23). If the sale to various importers does only occur later on, the exporter may provide a copy of the catch certificate to each importer. As the transport documentation will identify precisely the consignment, no confusion can be made in respect of the scope of the catch certificate. If an importer in a third country again divides the consignment to sell it to different processors, he also must provide copies of the catch certificate to his buyers with additional information on the respective quantities sold as laid down in Article 14(1) (b) of the IUU Regulation.*

- ***Q.: Fish landed by a fisherman might be distributed by various channels, mingled with other catches or be transmitted to various processing plants. Is thus a catch certificate required for every box or for every quantity of fish distributed?***
- *A.: The IUU Regulation only focuses on catches which will either directly or indirectly be traded with the EC. For these catches details of the fishing activities and traceability must be granted along the chain. Each consignment exported must be accompanied by one or more catch certificate(s) depending on the number of fishing vessels involved in the transaction, and respective copies must be attached if the consignment is divided into smaller quantities for further supplies or processing. However, in cases of consignments composed of different catches all stemming from small vessels and meeting certain criteria it would be up to the exporter to request the validation of only one simplified catch certificate for the consignment. Details on the simplified catch certification scheme for such catches are laid down in the Commission Implementing Regulation.*

- ***Q.: What happens if only a part of the fisheries products mentioned in a catch certificate are to be exported?***
- *A.: The catch certificate always refers to the part of the catch to be exported to the EC. The catch certificate indicates the total catch landed but has to be filled in by the exporter and validated only for the part to be exported. The exporter has to let declare by the vessel master or its representative in the corresponding boxes the information on the vessel and its catch activities, including the quantities landed for the species exported. This information is required by the validating authority in order to assess compliance with the relevant conservation and management rules and thus for the part to be exported. Information on the quantity to be exported is available on the export entry (for the exporting flag State), on the transportation documents (for the exporting flag State and the importing EU Member State) and on the other documentation to be submitted to the importing EU Member State for proceeding with the import formalities (health certificate, invoice, etc.) The same goes for processed products where the processing statement has to be attached only for the part of the catch which is to be exported to the EC. This means that if a total catch is exported in several consignments each consignment will be accompanied by an original catch certificate for that consignment. Copies may be used in cases where initially the catch in total is exported to the EC in one consignment and only afterwards divided and distributed to several importers. It is for the third country authorities to validate the catch certificate attached to the export and to evaluate whether the vessels quota has been exhausted.*

- ***Q.: Are copies of catch certificates necessary, if a consignment will be divided for exportation?***
- *A.: Due to the definition of a consignment in Article 2(23), each shipment from one exporter to one consignee will be a consignment. All fishery products contained in the consignment which are not exempted from the catch certification scheme must be subject to one or more validated catch certificate(s) depending on the number of fishing vessels responsible for the catches concerned by this transaction. Only when processed products which stem from raw material imported from other third countries are shipped to the EC in several different consignments, copies of the original catch certificate have to be attached to the processing statement. Each quantity of the catch used for the consignment of processed products must be stated, so that verifications could be carried out by the validating authority that the total amount of the original catch is not exceeded.*

- ***Q.: What if processing takes place using partly domestic caught fish and partly fish imported from another country before being exported to the EC?***
- *A.: The fishery products processed from domestic catches will be covered by the catch certificate(s) related to the vessels(s) concerned and identified on those catch certificate(s) by their own product code(s) and the species name(s). The balance of the consignment which is obtained from imported fish will be covered*

by the statement established by the processor and endorsed by the competent authority in accordance with Annex IV and copies of the related catch certificate(s) validated by the flag State(s) of the fishing vessel(s).

– **Q.: What happens if the processing of fish would be done in the same country as the catch was made? How can a catch certificate be completed in this case?**

– A.: Processing operations in the flag State must be noted in the field "product description" in the catch certificate. Processed products from the same country must be accompanied by its catch certificate which contains provisions on the description of the products under any form, as can be seen in Annex II. If the catch originates from another flag State than where the processing takes place the processing plant must complete the statement in Annex IV to be endorsed by the competent authority. Annex IV should only be completed for processing of imported catches. Processing of catches from the same country will be declared in Annex II by using both the boxes "species" and "product code".

– **Q.: If a consignment consists of both processed and non-processed products, how should the catch document be laid down?**

– A.: Products that are processed should be noted in the catch certificate by way of their product code. The catch certificate can contain several different codes of both processed and unprocessed products. However, this only applies for products processed in the flag State of the vessel which obtained the catches. The situation differs if fish is processed in another country than the flag State, including an EU Member State. In that case the processor must make sure that he receives a validated catch certificate (from the flag state) for the products that will be processed and traded to the EC. In addition, the processing factory must complete the statement in Annex IV of the IUU Regulation which must be endorsed by the competent authority in the processing country. The exporter must thereafter transmit the relevant catch certificate(s) and the Annex IV statement to the EC importer prior to export.

– **Q.: What would happen if the flag State fail to validate the catch certificate before being traded to a country for processing and further trade to the EC?**

– A.: If fish is processed in another country than the flag State, the processor must make sure that he receives a catch certificate validated by the flag State for the products that will be processed and traded to the EC. In addition, the processing factory must complete the statement in Annex IV of the IUU Regulation which must be endorsed by the competent authority in the processing country. Copies of the relevant catch certificate(s) must be attached to this statement. If no validated catch certificates have been received by the processor, he will not be able to establish a statement in accordance with Annex IV, to let it endorse by the competent authority and to communicate it with the related catch

certificate(s) to the importer. The consignment will therefore not be allowed for importation in to the EC.

– **Q.: If fish is imported from various other third countries for processing, must the processed product be accompanied by catch certificates from all these flag States?**

– A.: For all products used for processing a copy of each catch certificate validated by each flag State must accompany the Annex IV statement from the processing plant. If fish stemming from several flag States and/or different consignments is mingled at processing, separate validated catch certificates for each consignment are required.

– **Q.: Must copies of the catch certificate be validated?**

– A.: No, copies of the validated catch certificate do not need to be validated again. However, all information on the validating authority, including signatures and stamps must be visible on the copy.

– **Q.: What if products from one flag State are processed in two different countries before being exported to the EC?**

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

– **Q.: In case of indirect importation without processing, how can a country (from where the indirect importation takes place) know if the catch certificate from the flag State is valid?**

– A.: Products which are traded to another third country before reaching the Community must also be accompanied by a validated catch certificate and documented evidence that the products did not undergo any operations other than unloading, reloading or any operation designated to preserve them in good and genuine condition. The importer in the third country must therefore make sure that he receives a catch certificate validated by the competent authority of the flag State for the products that will be traded to the Community. The list of notified authorities for the validation of catch certificates will be available in the OJ of the EU and on the European Commission's website. Only notified and published authorities are competent to validate a catch certificate.

– **Q.: Is freezing of products regarded as processing?**

– A.: Freezing is not regarded as processing, but rather preservation. For freezing of products Article 14(1) applies.

– **Q.: What if fishery products are imported to the Community and after re-exported to a third country?**

– A.: In cases of re-exportation the second part of the catch certificate must be filled out by the EC re-exporter in order to prove that he imported the products with a validated catch certificate. Validation will be done by the EU Member State

concerned. No involvement of the flag State or the importing country is necessary in relation to the re-export certificate.

(C) Failure and consequences of non-compliance

- **Q.: What happens if an operator does not have a catch certificate?**
- A.: If a consignment is not accompanied by a validated catch certificate the products will be refused importation to the EC. The specific conditions for the refusal of importation are laid down in Article 18. The right of appeal of operators against the refusal of importation is applied in accordance with the provisions in force in the EU Member State concerned. The competent authorities of the EU Member State also have to notify their refusal decisions to the flag State and if needed, to the third country concerned in the event of indirect import.
- **Q.: Would a vessel be presumed to have carried out IUU activities if its catch is not accompanied by a catch certificate?**
- A.: Not necessarily, but a verification by the competent authorities of the EU Member State of importation would be obligatory. Either the exporter did not ask for validation or the flag State authorities did not grant validation. However, the flag State will be informed accordingly and the products which are not accompanied by a validated catch certificate cannot be traded with the European Community.
- **Q.: What will happen to the fishery products if there is a doubt as to the validation of the catch certificate?**
- A.: If an EU Member State has doubts as to the accuracy of validated catch certificates it may stop the relevant consignments from entering the EC market pending the results of the verification.

A competent authority may validate the catch certificate submitted by the exporter if it has no conflicting information which contradicts the declarations made on the certificate. However, the authority is free to decide, on its own right, to verify these declarations in case of doubts prior to validating the certificate. The information which must be filled in is basic information which can easily be completed. Moreover, the information to be completed and validated corresponds with catch documents in place in RFMOs. Authorities therefore already have the ability to verify information on catch certificates. Products exported without a validated catch certificate will not be authorised for importation into the Community. If a catch certificate has been validated whilst the doubts mentioned above could not be clarified for allowing validation, the operators will take the risk that the fact be unveiled through verifications resulting in a suspension of the importation and its denial pending on their outcomes.

- **Q.: What happens in cases where a consignment is composed of several different catches and for only one of those catches a**

validated catch is missing? Will importation for the whole consignment be refused or only for the part which is not accompanied by a validated catch certificate?

- A.: *If consignments are composed of different catches, importation entry should be refused only for those catches for which no validated catch certificate can be presented, unless the findings of the verification lead to a negative decision regarding the whole consignment (i.e. if the specific catches cannot be identified or if the consignment is used to dissimulate them, etc...).*

- ***Q.: There might be cases where conservation and management measures have not been respected or an offence might have been committed without having a severe impact. May a catch certificate be validated then?***

- A.: *In cases where there is no compliance with the applicable conservation and management measures, no catch certificate can be validated no matter how severe its impact. The question of impact or severity might be reflected by the enforcement measures taken by the flag State against the offender.*

- ***Q.: Can a vessel which has carried out illegal activities but which has been sanctioned for this obtain a validated catch certificate for the products stemming out of these activities?***

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

- ***Q.: What measures could be taken against IUU vessels not authorised to fly a given flag?***

- A.: *The catch certificates for catches obtained by such vessels must not be validated, so trade of the products with the EC is not possible.*

- ***Q.: Could the inability of a flag State to validate information on the catch certificate result in the status of a non cooperating third country?***

- A.: *If a catch certificate cannot be validated by a flag State which has notified its competent authority/ies to the European Commission under Article 20, the products concerned will not be able to be traded with the EC (Article 18). However, a decision to refuse validation of a catch certificate will not generate a status of non cooperating third country. In any case of refusal of importation, the third country concerned will be advised under Article 18(5) in order for it to take measures it regards as appropriate. With regard to the list of non cooperating countries, a country may only be considered as non cooperating if it fails to discharge the duties incumbent upon it under international law as a flag, port, market or coastal State to take actions to prevent, deter or eliminate IUU fishing. This type of measure will be one of last resort and will only be taken after numerous consultations with the country. The lack of catch certificate for a consignment imported from a country on the list of the notifying flag States*

cannot be interpreted as a failure by this country to discharge these duties. By contrast, it rather mean that its authorities could either not validate a certificate submitted by an exporter because they could establish that the catch did not comply with conservation and management measures or that the exporter did not request the validation of a certificate. In the event he could manage to ship his products to the EC, the refusal of importation and the information procedure which follows will enable the third country concerned to take action as appropriate.

– *The Commission has invited all third countries to notify their competent authorities for the validation of catch certificates, even where no information was beforehand in respect of catches directly or indirectly traded with the EC, in order to provide them with an additional opportunity to contribute to the implementation of conservation and management measures and to the fight against IUU fishing. The notification is an open procedure, so that flag States which will not have notified their competent authorities prior to 1st January 2010 can do that later on.*

– ***Q.: Why does Article 18(3) foresee that in cases of refusal of importation the product is confiscated and destroyed or sold for charitable purposes? Can the products in certain cases be re-attributed to the exporter?***

– *A.: Importation will only be refused if there is no valid catch certificate and if verifications show that the products have not been caught legally and thus stem from IUU activities. In such cases the products cannot be recuperated, since no illegal product should enter any market and should not be traded. In this context, the flag States are asked to fulfil their responsibility and to correctly validate catch certificates and enforce control.*

– ***Q.: Could fish which has been seized by the competent authority of an EU Member State for not complying with conservation and management measures be traded elsewhere?***

– *A.: No, such products should not enter any market.*

– ***Q.: If the products are sold for charitable purposes, could the benefit be used for charitable purposes in the third country concerned?***

– *A.: The IUU Regulation does not require that charitable purposes are to be limited to the EC territory. The benefit of the sale of the products will therefore be considered on a case by case basis and may take into account both the EC Member state and the third country of destination.*

5.19 Specific questions concerning the tasks and responsibilities of the different parties involved

(A) *Masters of EC fishing vessels*

– ***Q: Is it necessary that I get a catch certificate for my catches?***

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- *A.: No catch certificate is required for fishery products obtained by EC fishing vessels which stay in the EU. However, it should be noted that those catches fall under the control scheme of the Common Fisheries Policy which is stricter than the provisions in the IUU Regulation. There are two possible situations for exports of Community catches to a third country:*

1) If the exported catches are subject to processing in a third country and the processed products will be re-exported to the Community: a catch certificate is required whether the third country would ask for it or not. If these catches are not accompanied by a catch certificate, the consignments exported from that country will not be allowed to be imported back into the Community.

2) If the catches are exported for consumption in a third country: a catch certificate is only necessary if the third country requires one. If they do, EU Member States will be made aware of it.; To that end, within the framework of the cooperation laid down in Article 20(4), all third countries have been requested by the Commission to let know if they intend to require a catch certificate in accordance with its Article 15.

- ***Q: How do I request the validation of a catch certificate?***
- *A.: The master of a fishing vessel (or his representative) must fill in sections 2-4 of the catch certificate and sign it in section 5. Where appropriate, sections 6 or 7 have to be completed as well. It is after that up to the exporter to request the validation of the catch certificate. The exporter completes section 8 and transmits the certificate to the competent flag State authority for validation.*
- ***Q: What to do once the catch certificate has been validated?***
- *A.: The validated catch certificate will be returned by the validating authority to the exporter who is responsible to transmit it to the third country importer upon exportation.*
- ***Q: What do I do if I sight a fishing vessel committing an infringement at sea?***
- *A.: Sightings of IUU activities by fishing vessels may be reported to the EU Member States' authorities and the European Commission which will ensure appropriate follow-up and will inform the RFMO and flag State concerned. To facilitate the communication of information a form for the submission of information regarding sighted fishing vessels and instructions for completing the form are included in the Commission Implementing Regulation.*

(B) EC exporter

- ***Q: Do I need a catch certificate for fishery products stemming from the EC?***
- *A.: A catch certificate is required for the exportation of catches to be exported to a third country where the products undergo some*

type of processing before they are traded back to the EC. If these catches are not accompanied by a validated catch certificate, the consignments re-exported from the third country will not be allowed back into the Community. If the catches are exported for consumption in a third country, a catch certificate is only necessary if the third country requires so. Thus, exported catches obtained by EC fishing vessels are not automatically subject to the IUU catch certification scheme, but only on demand of the third country concerned to which the catches are exported.

- ***Q: How do I apply for the validation of the catch certificate?***
- *A.: It is up to the exporter to request a validation of the catch certificate for the relevant catches. He has to ask the master of the fishing vessel or his representative to complete sections 2-5 (and where appropriate sections 6 or 7), then the exporter completes section 8 and transmits the certificate to the competent flag EU Member State authority for validation. At the earliest time possible, but in any case before transmitting the catch certificate to the importer, the exporter also has to provide the transport details of section 10 in Appendix I to Annex II in the IUU Regulation.*

- ***Q: What do I do with the validated catch certificate?***
- *A.: The validated catch certificate will be returned by the validating authority to the exporter who is responsible to transmit it to the respective importer of the products in the third country. Each importer/processor in a third country must ensure that the consignment he receives is accompanied by a validated catch certificate. Otherwise he might refuse the products that might be traded back to the EC.*

- ***Q: Is electronic exchange, such as scanned documents in emails, acceptable?***
- *A.: Yes, the catch certificate may be transmitted by electronic means (between the exporter and the importer) as laid down in Article 12(4) of the IUU Regulation. If a competent flag State authority wants to use electronic means for the validation of the catch certificate they must notify the European Commission thereof.*

- ***Q: Do I still need other documents serving purposes different to the IUU Regulation?***
- *A.: Other legislation with certification systems or documentary obligations for products, including fishery products (e.g. health regulations or customs provisions) remain without effecting the IUU Regulation and vice-versa. The catch certificates used in accordance with the IUU Regulation will not be substitutes for documentation required for other purposes.*

- ***Q: What to do in case of re-export of fishery products previously imported from a third country?***
- *A.: The IUU Regulation also applies to the re-exportation of fishery products to a third country which have previously been*

imported into the Community (Article 21). In this case the exporter has to prove that he imported the products with a validated catch certificate. He must therefore fill in section 1 and 2 of the "re-export certificate" in Annex II of the IUU Regulation and transmit it to the competent authority of the EU Member State concerned for validation. It is up to the competent authority in this EU Member State to authorise the re-export. No validation of a third country is necessary at this stage.

- ***Q: What is the relation between the customs declaration (SAD) and the catch certificate?***
- *A.: Catch certificates are part of the customs declarations and have to be attached to them. Specific codes are to be used for designating these certificates in box 44 of the customs declaration (C656 for catch certificates validated for EC vessel catches exported and C671 for the re-export section of catch certificates in case of re-export).*

(C) EC importer

- ***Q: Do all imports of fishery products require a catch certificate?***
- *A.: The unprocessed and processed fishery products to which the catch certification scheme applies are defined by reference to Chapter 03 and Tariff headings 1604 and 1605 of the Combined Nomenclature, imported into the Community by any means of transport. Some products are exempted from the catch certification scheme. Those products are listed in Annex I to the IUU Regulation. Moreover, catch certificates are required for the importation of fishery products obtained from catches originating from Community fishing vessels which have previously been exported to third countries, e.g. for processing. Due to the scope of the definition, to be found in Article 2(8), fishery products which are proper to other Chapters or Tariff headings of the Combined Nomenclature, do not fall under the scope of the catch certification scheme.*
- ***Q: How do I get the catch certificate?***
- *A.: The EC importer must ensure that the consignment to be imported is accompanied by a validated catch certificate which he must receive from the exporter in the third country prior to the importation to the EC.*
- ***Q: What if the exporter refuses to provide me with a validated catch certificate?***
- *A.: The importation of the fishery products concerned will not be allowed in the Community. In the event they will nevertheless enter its territory, the competent authorities shall refuse the importation in accordance with Article 18 (see answer below to the question on refusal of importation).*
- ***Q: What do I do when I have received the catch certificate?***
- *A.: Once the EC importer has received the catch certificate he has the obligation to fill in section 11 (importer declaration) and to*

submit the catch certificate to the competent authority of the EU Member State of importation (Article 16(1)). In cases of indirect importation the importer will also have to submit the documents provided for in Article 14 (1) and (2) which will be used to ensure full traceability by determining if the product imported in the Community corresponds to the catch certificate(s). The documents need to be available to the competent authorities of the EU Member State of importation three working days prior to arrival of the products. Shorter dead-lines for products arriving by other means of transport than vessels are laid down in the Commission Implementing Regulation.

- ***Q: For how long should I keep the catch certificate?***
- *A.: The originals of the catch certificates have to be preserved for a minimum period of three years in the Community.*

- ***Q: Is electronic exchange, such as scanned documents in emails, acceptable?***
- *A.: Yes, the catch certificate may be transmitted by electronic means (between the exporter and the importer) as laid down in Article 12(4) of the IUU Regulation. If a competent flag State authority wants to use electronic means for the validation of the catch certificate they must notify the European Commission thereof.*

- ***Q: Do I have to submit any additional documents for the purpose of the IUU Regulation (e.g. in case of indirect importation)?***
- *A.: Yes, other documents are envisaged by the certification scheme in the event of an indirect import after transshipment, transit or processing of the products in another third country. For indirect importation without prior processing, documented evidence such as transport documents and authority statements is necessary to prove that the fishery product did not undergo any processing operation (Article 14 (1)). In case of indirect importation with prior processing, the processing statement in Annex IV of the IUU Regulation has to be provided. It has to be filled in by the processor in the third country other than the flag State and has to be endorsed by the competent authority of that other third country. The importer has nothing to declare on the Annex IV statement.*

- ***Q: Do I still need other documents serving purposes different to the IUU Regulation?***
- *A.: Other legislation with certification systems or documentary obligations for products, including fishery products (e.g. health regulations or customs provisions) remains without effecting the IUU Regulation and vice-versa. The catch certificates used in accordance with the IUU Regulation will not substitute documentation required for other purposes.*

- ***Q: What is the relation between the customs declaration (SAD) and the catch certificate?***

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– A.: *Catch certificates are annexes to the customs declarations and have to be attached to them. A specific code will be used for designating these certificates in box 44 of the customs declaration.*

– **Q: *What happens in case of refusal of importation?***

– A.: *Importation will only be refused if there is no valid catch certificate and if verifications show that the products have not been caught legally and therefore stem from IUU fishing. The specific conditions for refusal of importation are laid down in Article 18. The competent authority of the EU Member State may confiscate, destroy, dispose of or sell the products. The profits from the sale may be used for charitable purposes. Please note that in such cases the products cannot be recuperated by the exporter, since illegal products should not enter any market and should under no circumstances be traded. The right of appeal of operators against the refusal of importation is applied in accordance with the provisions in force in the EU Member State concerned. The competent authorities of the EU Member State also have to notify their refusal decisions to the flag State and if needed, to the third country concerned in the event of indirect import.*

– **Q: *What is an Approved economic operator?***

– A.: *Only an EC operator can be considered as an approved economic operator under Article 16(3). The status will bring no favourable treatment to an importer considered as an approved economic operator but will reduce the number of documents to be transmitted to the competent authorities of his EU Member State. EC importers benefiting from "approved economic operator" status will not be obliged to submit the validated catch certificates to the competent authorities of the importing EU Member State prior to the anticipated arrival of the consignment concerned. However, they will have to inform these authorities of the arrival of the products in the same manner as other operators and will have to hold the catch certificates and other relevant documents at their disposal for the purpose of checks or verifications. Inspection and verifications on import consignments of approved economic operators will take place on the premises of the importer instead of in port. The status of "approved economic operator" may be granted only to those operators meeting the criteria listed in Article 16(3) and the Commission Implementing Regulation. Details are laid down in the Commission Implementing Regulation.*

(D) EU Member State authorities

– **Q: *What to do in case of imports of fishery products from third countries?***

– A.: *For all marine fishery products to be imported to the EC, no matter which mean of transportation is used, a preliminary check of the catch certificate and the accompanying documents has to be done in accordance with Article 16 of the IUU Regulation. The relevant authority designated by the EU Member State concerned*

must check and verify these documents and the related products. In particular it has to be checked if the catch certificate has been validated by the competent authority notified by the respective third country. Where appropriate the checks can be done in cooperation with the third countries concerned, in order to make sure that the information obtained is valid and true and the products have been harvested in compliance with the applicable management and conservation measures.

- ***Q: What to do in case of landings by third country vessels?***
- ***A.: EU Member States will carry out inspections of at least 5% of all landings and transshipments by third country vessels each year and by using benchmarks based on harmonised criteria for risk management. However, third countries' fishing vessels will systematically be inspected in cases of suspicion or findings of non compliance with conservation and management measures. Moreover, the IUU Regulation lays down several cases where fishing vessels will always be inspected (Article 9). Prior to giving green light to the import of the landed fish into the Community it must be checked if a validated catch certificate is submitted for that fish.***

- ***Q: What to do in case of exports of catches obtained by fishing vessels flying the flag of an EU Member State?***
- ***A.: A catch certificate is required for the exportation if the catches will be subject to processing and later traded back to the Community. If these catches are not accompanied by a validated catch certificate, the consignments will not be allowed back into the Community. If the catches are exported for consumption in a third country, a catch certificate is only necessary if the third country requires so. Thus exports of catches obtained by EC fishing vessels are not automatically subject to the IUU catch certification scheme, but only on demand of the third country concerned (to which the catches are exported). It will be up to the EC exporter to decide if he need to request the validation of catch certificates for his exports and therefore transmits it to the competent flag EU Member State authority. The competent authority may validate the catch certificates for catches obtained by the fishing vessels flying its flag if, at the time of request for validation, it has no conflicting information that the catch was not made in compliance with applicable conservation and management measures. If at the time of submission of the catch certificate by the exporter, the competent flag EU Member State authority does not have all the elements allowing it to ensure the reliability of the information which appears in that certificate and/or of the compliance with applicable conservation and management measures or the competent authority has doubt regarding compliance, it shall carry out any check or verification it considers appropriate to determine whether the catch was legitimate and if it can validate the catch certificate. If there is evidence that the catch was not taken in compliance with applicable conservation and management measures it shall not validate the catch certificate. On the other hand, if the authority is***

satisfied with the information in the catch certificate and has no grounds to doubt its exhaustiveness and accuracy and the compliance with applicable management and conservation measures, it may complete section 1 ("Document Number" and "Validating Authority") and section 9 ("Flag State Authority Validation"). The catch certificate is thus validated and can be returned to the exporter.

- **Q: What to do in case of refusal of the importation?**
- A.: Importation should only be refused if there is no valid catch certificate or if verifications show that the products have not been caught legally and stem therefore from IUU fishing. The specific conditions for the refusal of importation are laid down in Article 18. The competent authority of the EU Member State may confiscate or destroy, dispose of or sell the products and the profits of sale may be used for charitable purposes. It has to be noted that in such case the products cannot be recuperated by the exporter, since illegal products should not enter any market and should under no circumstances be traded. The right of appeal of operators against the refusal of importation is applied in accordance with the provisions in force in the EU Member State concerned. The competent authorities of the EU Member State also have to notify their refusal decisions to the flag State and if needed, to the third country concerned in the event of indirect import, and to send a copy of the notification to the Commission.
- **Q: What to do in case of re-export of fishery products previously imported?**
- A.: The IUU Regulation also applies to re-exportation of fishery products previously imported into the Community (Article 21). In this case the competent authority of the EU Member State concerned has to validate the section "re-export" of the catch certificate which will be transmitted by the EC exporter.

(E) Masters of third country fishing vessels

- **Q: Is there anything I should do before landing or transshipment in a port of an EU Member State?**
- A.: Within the EU access to port services, landings and transshipment by third country fishing vessels will only be authorised in ports designated by EU Member States (Article 5). Masters of third country fishing vessels (or their representatives) must notify the competent authority of the EU Member State whose port facilities they wish to use at least 3 working days prior to estimated time of arrival. Exceptions to this notification period taking into account the type of fishery products are laid down in the Commission Implementing Regulation. In addition, masters of third country fishing vessels (or their representatives) have to submit to the EU Member State authority a declaration indicating the quantity of fishery products by species and the date and place of the catch prior to landing or transshipment.
- **Q: Do I need a catch certificate for my catches?**

– A.: *The catch certification scheme applies to all marine fishery products listed in chapter 0 and Tariff headings 1604 and 1605 of the Combined Nomenclature, processed or not, originating from third country fishing vessel and exported to the Community by any means of transport. Some products are however exempted from the catch certification scheme. They are listed in Annex I to the IUU Regulation, which is reviewed on an annual basis and amended by the Commission Implementing Regulation.*

– **Q: *How do I request the validation of a catch certificate?***

– A.: *It is not the master of a vessel who requests a validation of a catch certificate. However, the master of a fishing vessel (or his representative) must fill in sections 2-4 of the catch certificate and sign it in section 5. Where appropriate, sections 6 or 7 have to be completed as well. It is after that up to the exporter to request the validation of the catch certificate. The exporter completes section 8 and 10 and transmits the certificate to the competent flag State authority for validation.*

– **Q: *Are there specific rules for catches obtained by small fishing vessels?***

– A.: *Yes, the certification requirements have been adapted in order to facilitate the request for validation which will be done by the exporter following certain criteria based upon this specific situation. Those criteria are published in the Commission Implementing Regulation. A simplified catch certification scheme can apply to catches obtained by fishing vessels*

- *with an overall length of less than 12 metres without towed gear
or*

- *with an overall length of less than 8 metres with towed gear
or*

- *without a superstructure
or*

- *of less than measured 20 GT.*

If catches obtained by such vessels are only landed in the flag State and together form part of one consignment to be exported to the Community, the exporter can request the validation of a simplified catch certificate which the fishermen do not have to sign. However, the exporter must provide information on the fishing vessels and the catches (species, quantities). A template of the simplified catch certificate is attached in Annex IV of the Commission Implementing Regulation (see Annex to this manual).

– **Q: *What to do once the catch certificate has been validated?***

– A.: *The validated catch certificate will be returned by the competent authorities to the exporter who is responsible to transmit it to the EC importer of the products in time.*

– **Q: *What rules are applicable for my vessel in Community waters?***

– A.: *Third country fishing vessels fishing in Community waters are subject to the strict provisions of the Community fisheries control*

system. A reform proposal for a new Council Regulation establishing a Community control system ensuring compliance with the rules of the Common Fisheries Policy is currently discussed in the Council and shall enter into force at the same time as the IUU Regulation, on 1 January 2010.

Moreover, third country vessels in Community waters are subject to the Vessel Monitoring System (VMS) according to Chapter IV of Commission Regulation 2244/2003 of 18 December 2003. In particular, pursuant to Article 19 of that Regulation, masters of third country vessels shall ensure that the blue boxes are fully operational at all times.

(F) Third country importer/processor

- **Q: Do all imports of fishery products require a catch certificate?**
- A.: Fishery products which are traded to another third country before being exported to the Community must be accompanied by a validated catch certificate and documented evidence that the products did not undergo any operations other than unloading, reloading or any operation designated to preserve them in good and genuine condition (Article 14 (1)). In case of processing prior to the exportation the products have to be accompanied by a validated catch certificate from the flag State and the processing statement in Annex IV of the IUU Regulation (Article 14 (2)) from the State of processing. The importer in the third country must therefore make sure that he receives a catch certificate validated by the competent authority of the flag State for the imported products that will later on be traded to the Community.

- **Q: How do I get the catch certificate?**
- A.: Each importer/processor must ensure that the fish to be imported is accompanied by a validated catch certificate which he must receive from the exporter in the third country or the EC prior to the importation/processing.

- **Q: What if the exporter refuses to provide me with a validated catch certificate?**
- A.: If the fish to be re-exported unprocessed or after processing to the EC is not accompanied by a validated catch certificate, the documented evidence or the statement provided for in Article 14 may not be established and the importation of the fishery products will not be allowed in the Community. In the event that they will nevertheless enter its territory, the competent authorities shall refuse the importation in accordance with Article 18 (see answer above to the question on refusal of importations).

- **Q: What do I do when I have received the catch certificate?**
- A.: A third country importer has no further obligations concerning the validation of catch certificates in cases of indirect importation. He only has to make sure that the exporter can attach it to the documents provided for in Article 14 (1) and (2) which have to be transmitted to the EC importer.

- **Q: Is electronic exchange, such as scanned documents in emails, acceptable?**
- A.: Yes, the catch certificate may be transmitted by electronic means (between the exporter and the importer) as laid down in Article 12(4) of the IUU Regulation. If a competent flag State authority wants to use electronic means for the validation of the catch certificate, it must notify the European Commission.

- **Q: Does a processor in a third country other than the flag State need to submit any additional documents for the purpose of the IUU Regulation?**
- A.: Yes, in cases of indirect importation after prior processing in another third country the processing statement in Annex IV of the IUU Regulation has to be provided. It has to be filled in by the processor in the third country other than the flag State and has to be endorsed by its competent authority. Detailed information can be found in Article 14(2) of the IUU Regulation.

- **Q: Do I still need other documents serving purposes different to the IUU Regulation?**
- A.: Other legislation with certification systems or documentary obligations for products, including fishery products (e.g. health regulations or customs provisions), remain without effecting the IUU Regulation and vice-versa. The catch certificates used in accordance with the IUU Regulation will not substitute documentation required for other purposes.

(G) Third country exporter

- **Q: When do I need a catch certificate?**
- A.: The catch certification scheme applies to all marine fishery products listed in Chapter 03 and headings 1604 and 1605 of the Harmonised System, processed or not, originating from third country fishing vessels and exported to the Community by any means of transport. Products exempted from the catch certification scheme are listed in Annex I to the IUU Regulation. It is up to the exporter to request the validation of the catch certificate on a consignment basis prior to exportation.

- **Q: How do I apply for the validation of the catch certificate?**
- A.: It is up to the exporter to request a validation of the catch certificate for catches which are to be traded to the EC. He has to ask the master of the fishing vessel to complete sections 2-5 (and where appropriate sections 6 or 7), then the exporter completes section 8 and 10 and transmits the certificate to the competent flag State authority for validation. The exporter has to provide the transport details of section 10 in Appendix I to Annex II in the IUU Regulation.

- **Q: Are there specific rules for catches obtained by small fishing vessels?**

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- *A.: Yes, the certification requirements have been adapted in order to facilitate the request for validation which will be done by the exporter following certain criteria based upon this specific situation. Those criteria are published in the Commission Implementing Regulation. A simplified catch certification scheme can apply to catches obtained by fishing vessels*

- *with an overall length of less than 12 metres without towed gear*
 - or*

- *with an overall length of less than 8 metres with towed gear*
 - or*

- *without a superstructure*

- or*

- *of less than measured 20 GT.*

If catches obtained by such vessels are only landed in the flag State and together form part of one consignment to be exported to the Community, the exporter can request the validation of a simplified catch certificate which the fishermen do not have to sign. However, the exporter must provide information on the fishing vessels and the catches (species, quantities). A template of the simplified catch certificate is attached in Annex IV of the Commission Implementing Regulation (see Annex to this manual).

- ***Q: What to do once the catch certificate has been validated?***

- *A.: The competent authority will return the validated catch certificate to the exporter who is responsible to transmit it to the EC importer of the products.*

- ***Q: Do I have to submit any additional documents for the purpose of the IUU Regulation (e.g. in case of indirect importation)?***

- *A.: Yes, other documents are envisaged by the certification scheme in the event of an indirect import after transshipment, transit or processing of the products in another third country. For indirect importation without prior processing documented evidence such as transport documents and authority statements is necessary to prove that the fishery product did not undergo any processing operation (Article 14 (1)). In case of indirect importation with prior processing the processing statement in Annex IV of the IUU Regulation must be provided. It has to be filled in by the processor in the third country other than the flag State and to be endorsed by the competent authority of the other third country.*

- ***Q: Do I still need other documents serving purposes different to the IUU Regulation?***

- *A.: Other legislation with certification systems or documentary obligations for products, including fishery products (e.g. health regulations or customs provisions), remain without effecting the IUU Regulation and vice-versa. The catch certificates used in accordance with the IUU Regulation will not substitute documentation required for other purposes.*

- ***Q: What happens in case of refusal of the importation?***

- *A.: Importation will only be refused if there is no valid catch certificate and if verifications show that the products have not been caught legally and stem from IUU activities. The specific conditions for the refusal of importation are laid down in Article 18. The competent authority of the EU Member State may confiscate and destroy, dispose of or sell the products. The profits from the sale maybe used for charitable purposes. It has to be noted that in such case the products cannot be recuperated by the exporter, since illegal products should not enter any market and should under no circumstances be traded. The right of appeal of operators against the refusal of importation is applied in accordance with the provisions in force in the EU Member State concerned. The competent authorities of the EU Member State also have to notify their refusal decisions to the flag State and if needed, to the third country concerned in the event of indirect import.*

(H) Third country authorities

- ***Q: What to do in case of application for the validation of a catch certificate?***
- *A.: The competent public authority may validate the catch certificates for catches obtained by the vessels flying its flag if, at the time of request for validation, it has no conflicting information that the catch was not made in compliance with applicable conservation and management measures. If at the time of submission of the catch certificate by the exporter, the competent flag State authority do not have all the elements allowing it to ensure the reliability of the information which appears in that certificate and/or of the compliance with applicable conservation and management measures or the competent authority has doubt regarding compliance, it shall carry out any check or verification it considers appropriate to determine whether the catch was legitimate and if it can validate the document. If there is evidence that the catch was not made in compliance with applicable conservation and management measures it shall not validate the catch certificate. On the other hand, if the authority is satisfied with the information in the catch certificate and has no grounds to doubt its exhaustiveness and accuracy and the compliance with applicable management and conservation measures, it may complete section 1 ("Document Number" and "Validating Authority") and section 9 ("Flag State Authority Validation"). The catch certificate is thus validated and can be returned to the exporter. This applies for catch certificates as laid down in Annex II of the IUU Regulation and for the simplified catch certificates for catches obtained by small fishing vessels as laid down in the Commission Implementing Regulation.*
- ***Q: Is it necessary to keep a copy of the catch certificate?***
- *A.: The originals of the catch certificates that the EC importers shall submit to the Member State competent authorities shall be preserved by those authorities for a minimum period of three years. It is also suitable that the validating authorities in the third*

countries retain a copy of these documents for a corresponding period this should facilitate any subsequent verifications which might be requested by Member State authorities and also assist the authorities in the third country for the monitoring of the activities of its fishing vessels and exporters. .

- ***Q: What to do in case of landings by other third country vessels?***
- ***A: Only a flag State may validate a catch certificate for catches done by its vessels and the IUU Regulation does not impose any obligations on the coastal State in this respect. Moreover, the IUU Regulation does not interfere with national control and inspection systems, so the national rules apply. The list of notifying flag States will be published by the Commission on its website and in the Official journal of the European Union, with the name of the notified authorities. In the event where fish landed from a foreign fishing vessel is due to be re-exported to the EC, unprocessed or after processing, the third country of landing and re-export will be able to know if the flag State is on the list, for the purpose of implementing the provisions of Article 14.***

- ***Q: Does a third country authority have to verify a catch certificate?***
- ***A: The IUU Regulation requires flag States to validate catch certificates and to carry out verification upon request by EU Member States. However, it is up to each third country to organise its own system of verification to validate a catch certificate and to decide when and how such action will be taken. Verifications of validated catch certificate requested by Member States authorities shall be completed within the deadline laid down in Article 17.6(b).***

6. THE COMMUNITY ALERT SYSTEM (ARTICLES 23 AND 24)

The detection of IUU fishing activities should take place at the earliest possible stage in order to reduce its negative impact on the resources and on legitimate trade. The Community Alert System has been established to share information on operators and fishing vessels which are presumed to carry out IUU activities. The system will be managed by the European Commission and seeks to assist competent authorities to effectively identify situations at risk, improve the efficiency of their controls and avoid unnecessary verifications. In addition to its expected preventive effect, it will also contribute to ensuring transparency due to its public nature and facilitate cooperation with third countries.

The Community Alert System will analyse and cross check a wide range of information and control data and will generate "alert notices" where there are well founded doubts as to the compliance with applicable laws, regulations and international conservation and management measures in respect of fishing vessels or fishery products from third countries.

The European Commission will publish the alert notices, their updates and the final outcome of verifications generated by these notices on its website and in the Official Journal of the European Union. The alerts will also be communicated to the relevant third countries concerned (flag, coastal and/or market States). The communication of the

alert notices should increase the awareness of situations of risk of non-compliance with conservation and management measures and authorities will be enabled to focus their attention on potential cases of fraud and avoid unnecessary verifications on trade of legal goods. The alerts will result in increased efficiency of control of fishing vessels, fishery products and targeted verification procedures of validated catch certificates. The outcome of verifications carried out on the basis of alert notices will also be communicated to the third countries concerned for follow up.

Due to their public nature, the alert notices will be beneficial to operators by assisting them in avoiding involvement in activities connected to IUU fishing, such as trade, participation in fishing operations, transportation, processing, etc. It is therefore advisable to regularly consult on the European Commission website or in the Official Journal of the European Union (Series C).

- ***Q.: Is it the same as the Health and Safety Alert System?***
- *A.: No, it is a newly established alert system designed to detect at the earliest stage possible situations of risks of non compliance with conservation and management measures.*

- ***Q.: Are EU Member States obliged to react on alert notices from the European Commission?***
- *A.: EU Member States have to take appropriate measures in accordance with the common risk management criteria to ensure verifications of the consignments concerned by the alert notice and inspection of the respective fishing vessel. They have to inform the European Commission on the outcome of these measures.*

7. THE COMMUNITY IUU VESSEL LIST (ARTICLES 27 – 30)

The EC IUU vessel list is inspired from IUU lists adopted by RFMOs and will ensure that vessels which can continue to carry out IUU activities, as their flag States fail to apply effective sanctions on those activities will be prevented from selling their products for export to the EC and thus profiting from its activities. It may contain third country as well as EC vessels. The placement of a vessel on the EC IUU Vessel List is a measure of last resort to hinder the vessel from continuing to benefit from its IUU activities. Vessels will only be placed on the EC IUU Vessel List if its flag State have failed to sanction the vessel or to take appropriate measures in accordance with applicable laws. Vessels listed on IUU vessels lists adopted by RFMOs will automatically be included on the EC IUU Vessel list (Article 30).

The European Commission will notify a flag State if a fishing vessel flying its flag are presumed to carry out IUU activities. In addition, it will officially request the flag State to investigate the case and to take appropriate measures to prevent the continuation of the illegal practice. Irrespective of its flag, the fishing vessel will be listed by the European Commission on the EC IUU vessel list if the flag State refuses or fail to take appropriate measures in response to that official request and the subsequent contradictory proceedings as described in Articles 26 and 28, where the flag State and the vessel owner will be consulted. The vessel owner and its flag State will be informed of the listing, and of its reasons. Fishing vessels included in IUU vessel lists adopted by RFMOs will also be included in the EC IUU vessel list. Restrictive measures will be applied to IUU listed vessels to prevent them from continuing such activities. These measures include withdrawal of fishing authorisations, a ban on trade of products

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stemming from the vessels with the Community and prohibition to enter EU Member State ports (except in cases of force majeure or distress).

In detail, fishing vessels listed on the EC IUU Vessel list will:

- not be authorised to fish and to be chartered in EC waters;
- only be authorised to enter a EC port if the catches onboard and prohibited fishing gear are confiscated;
- not be supplied with fuel or other services in port, except in cases of force majeure or distress;
- not be authorised to change crew, except in cases of force majeure or distress;
- not be authorised to have its fishery products traded with the EC.

A vessel will be removed from the list if it has been appropriately sanctioned by its 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, that the vessel now is operating in full compliance with applicable conservation and management measures and that there are no financial links with other vessels or operators presumed to be involved in IUU activities.

- ***Q.: What is the intention behind an EC IUU vessel list when lists already exist in the framework of RFMOs?***
- *A.: RFMOs take own measures to list IUU vessels which are based on the framework of their areas of competence. They cannot therefore fully address the issue of the identification of IUU vessels and the prevention of their activities.*
- ***Q.: When establishing the EC IUU vessel list, will the European Commission take into account IUU vessel lists established by RFMOs and NGOs?***
- *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 the continuation of such practices and following a contradictory consultation with its authorities. It will also include the IUU vessels listed by RFMOs. IUU vessel lists published by NGOs only have indicative value as they are not based upon facts established by the competent authorities and are not supported by a contradictory consultation with the flag state.*
- ***Q.: 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, as provided for in Article 30 of the Regulation.*
- ***Q.: Can fishing vessels flagged to an overseas territory of an EU Member State be listed in the EC IUU vessel list?***
- *A.: Yes, the EC IUU list will include fishing vessels under any flag.*
- ***Q.: Can other vessels than fishing vessels be included on the EC IUU vessel list?***

- *A.: Only fishing vessels as defined in Article 2(5) of the IUU Regulation can be listed in the IUU vessel list, similar to IUU vessel lists adopted by RFMOs.*

8. THE LIST OF NON-COOPERATION THIRD COUNTRIES (ARTICLES 31 – 35)

The European Commission will identify third countries that fail to cooperate in the fight against IUU fishing, by failing to discharge their duties under international law as a flag, port, coastal or market State and notify its position and the supporting evidence to that country. If no appropriate measures are taken by that country to improve the situation, the European Commission will notify the countries concerned that they may be identified as non-cooperating and give opportunity to respond to the allegation, or to take appropriate measures to rectify the situation within an appropriate time frame. If no action is taken the Council of the European Union may list the country as a non-cooperating third country; the list will be published in the Official Journal and on the website of the European Commission. This measure is inspired from measures already adopted by RFMOs which has proven to be an effective mean to identify countries which continue to undermine applicable laws on conservation and management measures and threatens the sustainable exploitation of living aquatic resources and marine biodiversity.

It will be prohibited for non cooperating third countries to trade any fishery products, directly or indirectly, with the European Community. Joint fishing operations between vessels flagged to these countries and Community vessels will be prohibited, likewise the sale or purchase of vessels to/from Community operators. The European Commission will also propose the denunciation of any standing bilateral fisheries agreements or Fishery Partnership Agreements (FPAs) or not enter into any negotiations creating one with such countries.

The implementation of these measures will be lifted only if the third countries listed as non-cooperating can prove that the situation which warranted their identification has been rectified. A removal decision will take into account whether the identified third country have taken concrete measures capable of achieving a lasting improvement to the situation.

- ***Q.: Which would be the time for third countries to take appropriate measures in order to avoid being listed as non-cooperating country?***
- *A.: Before the listing of a country as non-cooperative a procedure of identification, verification and communication will take place, during which particular difficulties can be explained so that the European Commission can provide technical assistance to remedy the situation. The listing would only be the last resort if a country continuously fails to cooperate and to improve the situation. The measures to be taken and the duration for their implementation depend on the specific situation and shortcomings. It is important to note that the EC will take the capacity of the relevant country into account before including a country on the list of non cooperating third countries.*
- ***Q.: What are the concrete responsibilities of third countries under international law?***

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- *A.: In their capacity of flag States, countries are responsible for the implementation of internationally agreed conservation and management measures and for the effective control of the vessels flying their flag. In addition, they may not prevent other countries committed to implement those conservation and management measures to abide with their obligations.*
- ***Q.: Will a third country which is listed as non-cooperative by the Council of the European Union be considered as non-cooperating in other parts of the world as well, e.g. in the USA?***
- *A.: In the context of the IUU Regulation "non-cooperating" means non-compliance with applicable international obligations and commitments to conservation and management measures. Since other countries such as the USA have different approaches, they might not necessarily apply the EC list of non-cooperating third countries.*

9. EMERGENCY MEASURES (ARTICLE 36)

Emergency measures may also be imposed where measures adopted by a third country undermine conservation and management measures adopted by RFMOs. Such measures shall last no more than 6 months and may include:

- Refusal of access to EC ports of fishing vessels flagged to that country, except in cases of force majeure and distress
- Prohibition of joint fishing operation with EC vessels
- Prohibition of EC vessels to fish in that country's waters, without prejudice to the provisions set out in bilateral fisheries agreements.

10. EC NATIONALS (ARTICLE 39)

Particular attention is paid to the fact that nationals of the EC shall neither support nor engage in IUU activities and the EU Member State concerned shall cooperate with the relevant third country in order to identify nationals supporting or engaging in IUU activities. The EU Member State concerned must take appropriate measures (without prejudice to the responsibility of the flag State) against its nationals engaging in or supporting IUU activities under any flag and even if no trade with the EC is concerned.

- ***Q.: How does the EU deal with vessels flying the flag of an EU Member State and fishing in waters of third countries? What measures would be taken against such vessels in case of IUU activities?***
- *A.: The Fishing Authorisation Regulation No. 1006/2008 which was adopted and published 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 national law.

- ***Q.: Can importers also be sanctioned for importing products obtained from IUU activities?***
- ***A.: Yes, all actors, including importers, can be sanctioned under the IUU Regulation.***

11. SANCTIONS (ARTICLES 44 – 46)

IUU fishing activities can only be prevented, deterred and eliminated if States can effectively track down IUU operators. The IUU Regulation therefore consists of a system of effective, proportionate and dissuasive sanctions for serious infringements in respect of natural and legal persons.

A comprehensive harmonised system of administrative sanctions is introduced, together with enforcement and accompanying measures for serious infringements. This should 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. To this end, EU Member States will have to 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. The value of the prejudice of the fishing resources and the marine environment will as well be taken into account.

- ***Q.: Do third countries have to apply the levels of sanctions proposed in the IUU Regulation?***
- ***A.: No, the provisions on sanctions are only to be implemented by EU Member States and do not interfere with the sanctioning systems in third countries.***

12. SIGHTINGS AT SEA (ARTICLES 48 AND 49)

The provisions on sightings at sea in the IUU Regulation are based on already existing rules on sightings at sea adopted within RFMOs.

Sightings of fishing vessels possibly engaged in IUU activities can be done by an EU Member State's authority or by either EC or third country fishing vessels.

Sightings by authorities together with the outcome of possible investigations will be communicated to the RFMO and flag State concerned for follow-up.

Sightings by fishing vessels may be reported to the EU Member States' authorities and the European Commission which will ensure appropriate follow-up and will inform the RFMO and flag State concerned.

To facilitate the communication of information a form for the submission of information regarding sighted fishing vessels and instructions for filling are included

in Annex X of the Commission Implementing Regulation. However, it is important to stress that it is not an obligation for fishing vessels to use this form.

The European Commission will also examine suitably documented information provided by other parties, such as citizens, NGOs or fisheries organizations.

13. MUTUAL ASSISTANCE (ARTICLE 51)

Administrative authorities of EU Member States need to cooperate with each other, with public authorities of third countries and with the European Commission in order to ensure the effective implementation of the IUU Regulation. However, the exchange and the use of information between authorities at international level require a legal framework to determine the scope and conditions of such cooperation, including the protection of personal data. To that end, the IUU Regulation provides for the setting up of a systematic and automated administrative cooperation and exchange of information concerning potential and detected IUU fishing, which will cover the following areas:

- exchange of information on request;
- exchange of information on spontaneous basis, without prior request;
- requests to take enforcement measures (e.g. verifications, administrative enquiries or any other type of appropriate enforcement action);
- notification of instruments or decisions on request.

14. CONCLUSIONS

Assistance to third countries

According to Articles 11 and 17 inspections and verifications can be requested by an EU Member State if there are doubts about the validity of a catch certificate. The EC may (pending agreement) cooperate with a flag State if a suspected breach have taken place on the high seas in carrying out investigation to the breach. On expressive request of a third country, prosecution can be transferred to the EU Member State. If the breach took place within the maritime waters of a third country, the port EU Member State may (pending agreement) cooperate in carrying out investigation to the breach and if expressly agreed by the flag State, sanction the operator.

Under the administrative cooperation, those third countries which want to do so can communicate information on foreign vessels operating illegally in its waters to the European Commission, which will forward it to EU Member States. The mean to address this problem is the verification of the catch certificates once the products arrive at the borders of the EU. Since information on the fishing trip and the catch area has to be included, EU Member States authorities will have the opportunity to verify the catch certificates and to cooperate with the costal States in case of inconsistencies. In case of determined IUU activities, importation would be refused and the products would be seized.

Moreover, the Community Alert System will provide third countries with useful information on situations which might be indicators for IUU activities. This information

will be communicated systematically in order to allow the countries concerned to target their verification activities.

The European Commission will take into account the capacity of developing countries and assist them in implementing this Regulation and fighting IUU fishing. The constraints of developing countries in the field of monitoring, control and surveillance of fishing activities will be taken into account. Likewise, the European Commission issued a statement prior to adoption of the Regulation where it undertakes to assist third countries in the implementation of this Regulation, and notably, the EC catch certification scheme.

- ***Q.: Will the European Commission provide assistance and capacity building to developing countries for the purpose of implementing the IUU Regulation?***
- *A.: Specific needs regarding the implementation of the Regulation have to be communicated in writing to the European Commission which will evaluate each request at its own merit. Capacity building may be provided in more general terms under instruments pertaining to 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. The EU Member States concerned will communicate the outcome of inspections and verifications to the flag and coastal State in order to allow them more targeted actions and better use of resources. Moreover, the Community Alert System will provide useful information to third countries to better target control measures even if there are products concerned which are not to be traded with the EC.*

15. MORE INFORMATION

Under the link <http://ec.europa.eu/fisheries/iuu> to the European Commission (DG MARE) website more practical information on the application of the IUU Regulation can be found, such as:

- the list of designated ports in the EU Member States for landing of third countries' fishing vessels;
- the list of third countries' notifications of their competent authorities for the validation of catch certificates;
- the list of EU Member States' notifications of competent authorities for the implementation of the IUU regulation;
- the list of third countries wishing to receive catch certificates for EC catches;
- Community Alert notices;
- the Community IUU vessel list or
- the list of non-cooperating third countries.

Other useful information can be found under the following links:

- on the Combined Nomenclature

http://ec.europa.eu/taxation_customs/customs/customs_duties/tariff_aspects/combined_nomenclature/index_en.htm

- on third countries customs/product codes

<http://www.madb.europa.eu/mkaccdb2/indexPubli.htm>

16. ANNEXES

- IUU Regulation
- Commission Implementing Regulation, incl.
 - List of excluded products (Annex I to the IUU Regulation)
 - List of recognised RFMO catch certification schemes
 - Prior notification form
 - List of information required for landing and transshipment declarations
 - Application for Approved Economic Operator Certificate
 - Template for a Sighting report