

31 October 2009



Key questions on the new IUU Regulation

This supplements the Defra FAQ paper of 31 July 2009 at:

<http://www.defra.gov.uk/marine/pdf/fisheries/iuu-faq.pdf>

Overview

Q1. What will the new IUU Regulation mean to you?

In essence Regulation No 1005/2008 which comes into force on 1 January 2010 will create new requirements on fish and fisheries products entering the EU from third countries (non-EU).

- Catch certificates, to show fish have been caught legally, must be issued by the flag state of the catching vessel. These documents must accompany the fishery product throughout the supply chain and will be required on entry into the EU.
- Checks of landings from third country vessels will be undertaken by the appropriate fisheries authorities in the four territories of the UK – in England this will be the MFA (and subsequently MMO).
- Checks at commercial ports and airports are likely to be undertaken by Port Health Authorities. Port Health Authorities are likely to charge for the checks on a cost-recovery basis.
- UK catch certificates will be required for exports in certain circumstances (see below). These are likely to be issued by the UK fisheries departments, but this still to be confirmed.
- The UK will have to provide catch certificates where fish is exported outside the EU and re-imported, and where the authorities of the destination country require certification.
- The Regulation provides for the introduction of an Approved Economic Operators (APEO) system. These operators will not have to provide catch certificates on entry, but instead keep the documents themselves and produce them for checking as required. Further details will be made available in the autumn.

- There will also be a new consolidated IUU vessel list and sanctions on nationals engaging in IUU activity right through the supply chain.
- The regulations set out a harmonised level of penalties and sanctions to be applied.

Q2. What is the role of Seafish?

As an organisation Seafish condemns illegal, unreported and unregulated fishing and fully supports the application of the regulations. We are working closely with the appropriate Government departments to support the industry, through our participation in a pan-industry working group coordinated by the Food and Drink Federation. We share a common agenda with industry and support the NGOs on the total eradication of IUU.

Q3. What action do importers need to take in light of the pending legislation?

The importer needs to ensure that the exporter is aware of the catch certification requirement and that the exporter has taken steps to make them available for each consignment of fish caught from the 1 January 2010 onwards.

In addition, Seafish advises importers to carry out a risk assessment of the supply chain to identify (and try to eliminate) points at which IUU fish can enter the chain.

There is also an AIPCE-CEP Standard that sets out standards for traceability and record keeping for goods delivery, fishing and transport vessels, port registration, control documentation, import control procedures and purchase of finished products.

The importer should keep up to date with developments in procedures by regularly checking this site and the Defra site.

Q4. What will happen if a company inadvertently takes in IUU fish?

Defra will take into account criteria such as the damage done, its value, the extent of the infringement and its repetition. It is unlikely that a company will be penalised for a single instance of taking IUU fish. However if they are continual offenders then they will run the risk of being sanctioned.

The regulation provides for sanctions (fines or criminal proceedings) to be levied in the case of serious infringements of the regulation.

Catch certificates

Q5. What information do importers need to supply to confirm IUU fish is not being imported?

The authorities in the UK will be satisfied if the consignment to be imported is accompanied by a validated catch certificate. However, importers are advised to follow the Industry Protocol for eliminating IUU fish as set out above.

Q6. Will imports from Norway, Faeroes, Iceland and Greenland need catch certificates?

Yes, they will need validated catch certificates. There is no exemption for these countries.

Q7. What is likely to happen if there is a minor variance due to clerical errors on a catch certificate?

In the UK it is hoped that the Port Health Authorities will adopt a pragmatic approach and allow corrections to be made retrospectively. However as is the case for health certificates it is likely that each Port Health Authority will make its own decision based on the nature of the discrepancy.

Q8. Who is responsible for checking catch certificates on mainland Europe?

The authorised competent authority will vary from Member State to Member State according to how their national authorities are structured. Details of all Member State's Competent Authorities will be published on the European Commission's website. Checks in some countries are likely to be carried out by Customs authorities and by Port Health Authorities in others].

Q9. Is there likely to be a variance in the way competent authorities across Europe inspect and deal with catch certificates?

It will be important for the regulation to be applied consistently across the EU. The Commission is issuing a guide to the IUU Regulations in September/October that will provide interpretation of the rules and help Member States take a consistent approach to how the new system will operate. In addition the Commission will be holding training sessions for Member States' authorities in the autumn.

Q10. What is the EU doing to ensure harmonisation across Europe?

The guide to the IUU Regulations and training sessions will go a long way towards ensuring harmonisation.

Q11. What will a catch certificate look like?

Catch certificates will need to include all the information contained in the sample catch certificate set out in Annex II of the IUU Regulation (Regulation 1005/2008). In addition, some RFMO catch document schemes will be acceptable as an alternative to an IUU catch certificate. A simplified catch

certificate for exports from small scale fisheries will also be made available. Details of eligible RFMO catch document schemes and the simplified catch certificate will be included in the European Commission's implementing regulation, to be published in the autumn.

Q12. How can I ensure that my consignments have been issued with a valid catch certificate(s)?

The European Commission will publish on its website a list of those countries and their competent authorities that are able to validate catch certificates. Importers will need to ensure their products are sourced from countries on this list, and that they are accompanied by a validated catch certificate.

In addition, a responsible importer should follow the Seafish risk assessment protocol to identify steps in the supply chain that are vulnerable to the entry of IUU fish and, where possible, take steps to minimise the risk. It is vital that you source from reputable vessels, agents and countries.

Q13. Why can catch and health certificates not be combined into a single document?

They are separate documents, established to serve different purposes. The health certificate cannot be used as a catch certificate as it does not ensure compliance with fisheries conservation and management rules.

Q14. Will certificates that have been received by electronic means be acceptable?

The IUU regulation allows for the catch certificate to be established, validated and submitted by electronic means. In particular the catch certificate may be communicated by electronic means (between the exporter and the importer) as set down in Article 12(4) of the regulation (Defra FAQ Q23 refers).

However, the Commission is still in the process of negotiating with third countries on the use of electronic certification. It will be necessary to await the outcome of these discussions before electronic certification is acceptable.

Providing detailed information

Q15. In 2010 I will be importing fish caught before 1 January 2010 without a validated catch certificate. What steps can I take to prevent any problems if Port Health disputes the catch date?

The authorities in the UK are aware that consignments of fishery products caught before 1 January 2010 will be entering the country after that date. If an importer is concerned about the possibility of such consignments being detained or rejected, the importer should contact the relevant Border Inspection Post and provide information about expected consignments.

Q16. In small scale fisheries like artisanal tuna fisheries, will the country where it's processed be able to issue a blanket certificate for all the landings? What happens when vessels from other countries land alongside local vessels?

Normally the catch certificate only refers to one vessel per certificate. However, if the consignment comes from several small vessels a simplified catch certificate can be used which can cover catches from a list of several vessels. Details of this simplified catch certificate, including the criteria the vessels must meet, will be included in the Commission's implementing regulation. Catches by vessels from other countries will need to be validated by the flag state of those vessels.

APEO Status

Q17. What precisely do you need to do to get APEO status so we can import without our paperwork being checked at port?

Section F of Defra's Information Note provides some detail on the criteria applicants will need to meet in order to obtain APEO status. However, more detailed information will be available when the implementing regulation becomes available in the autumn.

Q18. How will APEO's be audited, and what risks are there if records are found wanting?

The process for auditing APEOs has yet to be decided. The implementation regulation will contain more details on temporary suspension and outright suspension of the APEO status.

Q19. Can I start working towards achieving APEO status?

Yes. It is likely that the implementing regulation will require applicants to obtain Customs AEO status prior to being awarded APEO status. Customs AEO status is useful in its own right as it can help facilitate and simplify commercial trade. It will take a minimum of three months to achieve AEO status, so if a company is not an AEO it is worth starting work towards achieving it as soon as possible.

Q20. What happens to an APEO if they are found to have an infringement?

Their APEO status will be suspended and the APEO will have to take corrective measures to return to compliance. The details of these procedures will be laid out in the forthcoming implementing regulation.

Further information

Q21. Where can I look for further information?

Seafish website

- Seafish IUU page

<http://www.seafish.org/b2b/subject.asp?p=349>

- Seafish Guide to IUU

http://www.seafish.org/pdf.pl?file=seafish/Documents/SeafishGuidetoIUU_200905.pdf

- Seafish Guide to Importation

<http://www.seafish.org/b2b/info.asp?p=119>

Defra website

- Main page

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

- Defra Information note

<http://www.defra.gov.uk/foodfarm/fisheries/documents/fisheries/iuu-infonote.pdf>

- Defra FAQ

<http://www.defra.gov.uk/foodfarm/fisheries/documents/fisheries/iuu-faq.pdf>

EU

- Main website

http://ec.europa.eu/fisheries/cfp/external_relations/illegal_fishing_en.htm

- EU regulation 1005/2008

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:286:0001:0032:EN:PDF>

- EU implementing regulation 1010/2009

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:280:0005:0041:EN:PDF>

- EU Flag State Notifications

http://ec.europa.eu/fisheries/cfp/external_relations/illegal_fishing/pdf/flag_state_notifications.pdf

Other sources

Association of Port Health Authorities – Guidance for Importers and Enforcement Officers. Identification Marking of Fishery Products Imported into the EU.

<http://www.apha.org.uk/pdfs/FishIDFinalV2-0.PDF>

Database of legislation and guidance on imported food controls

<https://grail.foodapps.co.uk/grail/general/home.aspx>