

ADDENDUM TO THE HANDBOOK ON THE PRACTICAL APPLICATION OF THE IUU REGULATION

This is an addendum to the first edition of the 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. This addendum concerns both the complete English version of the handbook and the shortened versions in the other official languages of the EU. Where the changes concern the English version only, this is indicated at the beginning of the paragraph by the words "English version only".

The sole purpose of this addendum is to provide information. It does not replace or add anything to the provisions of Council Regulation (EC) No 1005/2008 and Commission Regulation No 1010/2009, which constitute the legal basis to be applied.

Lisbon Treaty

- Following the entry into force of the Lisbon Treaty entered on 1 December 2009, the following expressions used in the handbook are replaced as shown below:
 - "European Community" by "European Union"
 - "EC" by "EU" (except in references to legal texts, e.g. Council Regulation (EC))
 - "Community" by "EU"
 - "EC IUU vessels list" by "EU IUU vessel list"
 - "Community Alert System" by "EU Alert System"

The EU Control Regulation

- **(English version only)** After the publication of the Handbook, the Control Regulation which entered into force on 1 January 2010 was adopted under the following title: "Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy". Therefore, references to the proposal for a Council Regulation establishing a Community control system ensuring compliance with the Common Fisheries Policy should be replaced by references to the Control Regulation in the following points:
 - Point 2. General background information, under "IUU Regulation and the EU control system".
 - Point 4. Which rules apply to the inspection of third country' vessels and fishery products in EU Member States, in reply to the question: *What does the EU do to control its own vessels?*
 - Point 5. The catch certification scheme
 - Point 5.19. Specific questions concerning the tasks and responsibilities of the different parties involved – (E) Masters of third country fishing vessels – Under question "What rules are applicable for my vessel in EU waters"?

New legislation: Amendments to the IUU Regulation and its implementing Regulation

- Since 1 January 2010, the EU has adopted two amendments to the IUU Regulation and its implementing Regulation. The references to these amendments are: "Commission Regulation (EU) No 86/2010 of 29 January 2010 amending Annex I to Council Regulation No 1005/2008 as regards the definition of fishery products and amending Commission Regulation (EC) No 1010/2009 as regards exchange of information on inspections of third country vessels and administrative arrangements on catch certificates" and "Commission Regulation (EU) No 395/2010 of 7 May 2010 amending Commission Regulation (EC) No 1010/2009 as regards administrative arrangements on catch certificates".

The first amendment modifies Annex I of the IUU Regulation by adding new products to the list of products excluded from the scope of the catch certification scheme. Consequently, every reference to Annex I of the IUU Regulation in the Handbook should be replaced by a reference to Annex I of Regulation (EU) No 86/2010.

This first amendment also transposes into EU law three administrative arrangements with Norway, US and New Zealand, including the templates of the catch certificates that these countries use. For more detailed information, see point 5.15 of the Handbook: "Use of electronic traceability systems under the control of third countries / special arrangements between a third country and the European Commission".

The second amendment transposes into EU law three administrative arrangements with Canada, Iceland and the Faroe Islands, including the templates of the catch certificates that these countries use.

Catches made prior to 1 January 2010

- **(English version only)** In point 3 "General principles and scope of the IUU Regulation", under the question "*Is there a possibility for a flexible and gradual entry into force to allow developing countries to adapt to the new situation?*", and under the question "*Does the IUU Regulation apply to catches obtained before 1 January 2010?*", the following text is added to the answers:
"Statements indicating that catches were taken before the entry into force of the IUU Regulation might be used by third countries in order to differentiate these catches from the catches made after 1 January 2010. However, there are no legal requirements concerning catches made before 1 January 2010, these statements should never be named "exemption statements". These statements might be used as information by competent authorities in the EU Member States but cannot be regarded as formal evidence and will not preclude verifications being carried out."

Fishing without the support of a vessel

- **(English version only)** In point 3 "General principles and scope of the IUU Regulation", under the heading "Scope of the IUU Regulation and definitions", the following is added at the end of the third paragraph:
"Non-vessel based fisheries (understood as fishing activities without the support of a vessel) do not fall under the scope of the IUU Regulation. Therefore, imports into the EU of products stemming from non-vessel based fisheries shall not be accompanied by a catch certificate. The European Commission has requested all third countries concerned to communicate relevant information on this type of fisheries, in order to

facilitate the identification of products falling within the scope of the catch certification scheme."

Prior notification by third country vessels

- **(English version only)** In point 4 "Which rules apply for the inspection of third countries vessels and fishery products in EU Member States?", under the part "Prior notification (Article 6)" the following wording is added at the end of the third paragraph:
"The prior notification deadline for Icelandic and Norwegian vessels is two hours, in accordance with Commission Regulation (EC) No 1292/97 of 3 July 1997 laying down notification deadlines for fishing vessels flying the flag of, or registered in, certain third countries."

Authorisation to enter ports in the EU

- **(English version only)** In point 4 "Which rules apply to the inspection of third countries vessels and fishery products in EU Member States?", under the heading "Authorisation to enter ports in the EU (Article 7)", the sentence "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" is replaced by the following sentence:
"According to Article 7 (3) of the IUU Regulation, EU Member States may authorise entry into a port by third country fishing vessels wishing to land their catches in this port if the fishery products are not accompanied by a catch certificate. In such cases, the Member State may keep such products in storage, up to a maximum of 14 calendar days, until the catch certificate is received or until the products are placed in a transit procedure. After the 14 days have elapsed, the port Member State may confiscate the fishery products in accordance with national rules."

Importation of sample products

- In point 5.2 "Products concerned", the following paragraph is added:
"All samples of fishery products (even small ones) are also covered by the IUU Regulation. There is no minimum weight below which samples are exempted from the Regulation."

Use of a single catch certificate covering multiple catches by the same vessel and/or catches by multiple vessels

- In point 5.7 "Importation of mixed consignments", the first paragraph is deleted and replaced by the following:
"Article 12 (3) of the IUU Regulation states that *"the catch certificate shall contain all the information specified in the specimen shown in Annex II and shall be validated by the flag State of the fishing vessel or fishing vessels which made the catches from which the fishery products have been obtained."* Accordingly, when one consignment is composed of products originating from different catches made by the same vessel and/or catches from different vessels under the same flag, one single catch certificate can be used for the whole consignment, as long as the required details of each vessel are appended to the catch certificate. In such cases, flag state authorities will need to

ensure that each additional page of information includes the same catch certificate reference number and date of validation.

It should also be noted that Article 12.3 and the simplified catch certificate are two different possibilities which should not be confused. The simplified catch certificate can only be used when certain criteria are fulfilled (see Article 6 of the IUU Regulation). Article 12.3 of the IUU Regulation applies to situations when the simplified catch certificate cannot be used."

Notifications of third countries competent authorities

- In point 5.12, under part C "Role of third countries' authorities", after the sentence "notifications received later will be valid from the date where they are made publicly available", the following is added:
"This means that fishery products caught between 1 January 2010 and the date of publication of the notification cannot enter the EU market, even after the notification has been published. Retrospective validation of catch certificates covering fish caught during this period is not allowed. In addition, a third country must also be on the DG SANCO list *"of third countries and territories from which imports of bivalve molluscs, echinoderms, tunicates, marine gastropods and fishery products are permitted"* in order to be authorised to export its fishery products to the EU. In cases where a third country notification has been published under the IUU Regulation, but the country is not on the DG SANCO list, imports of fishery products from this country are not allowed."

Transit procedures

- In point 5.12, part D, letter (f) "Fish landed for transit to another Member State or transhipped to another Member State", the last sentence in the second paragraph "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" is corrected as follows: "It should be noted that for transit operations **within** a Member State, each Member State must decide if they wish to carry out verifications at the port of entry or at the final destination and communicate this decision to the Commission, which will publish it on its website (Article 19 (2) of the IUU Regulation).
- **(English version only)** In point 5.12, under part E "Role of the European Commission", the reference to Article 19(1) under the last indent should be replaced by a reference to Article 19(2).
- **(English version only)** In point 5.13, under part E " Controls and verifications of the catch certificates (Articles 16 and 17)", the first sentence of the second paragraph is corrected as follows: "In the case of fishery products in transit from the Member State of first entry to another Member State, controls and verifications must be carried out by the Member State of final destination". The remaining part of the paragraph is deleted.

Description of products

- In point 5.16, under the part "Section 2 to 5", the following is added before the paragraph "Section 3 (description of products)":
"The description of products should only refer to the part that is actually exported to the EU and does not concern the catch itself. This applies to third countries' products exported to the EU and also to exports of EU catches when a catch certificate is required."

Weights to include in a catch certificate

- In point 5.16, under "Section 2 to 5", the following is added to the parts referring to the weight of the product in the catch certificate:
"In general, the weight to be entered should cover the consignment to be exported. Only one of the fields "Estimated live weight" or "Estimated weight to be landed" (plus verified weight landed where this information is available) should be completed. If the amount exported from one exporter in a third country constitutes a part of a landing from one vessel, the weight should only be the amount exported indicated in "Estimated live weight" and not the entire amount landed. If the entire catch is exported upon landing by the master or its representative, the weight should be the entire catch, i.e. "Estimated weight to be landed (plus verified weight landed where appropriate)". In any case, information about the weight of the consignment to be exported should always be indicated in the certificate."

Transshipment

- In point 5.16, under "Section 7 (transshipment authorisation within a port area)", the sentences "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" are modified as follows:
"If transshipment is authorised, it is up to the third country to organise its control and validation procedure. The competent authority for this control has to sign this part of the catch certificate."

Originals of catch certificates

- At the end of point 5.17 "Flow of the catch certificate", the following is added:
"Member States authorities have to keep the originals of the catch certificates submitted for importation for a period of three years or longer, according to their national rules. In the case of catch certificates validated by EU authorities for EU catches exported to third countries, Member States need to keep a copy of the certificate (as the original is sent to the third country). In the case of electronic catch certificates, the document generated by the system is considered as being the original."

Transit procedures

- In point 5.18 "Frequently asked questions on the practical application of the catch certification scheme"; part A "Scope, formalities, distribution of tasks", under the question "Do products in transit in an EU port, not going into the EU market, have a catch certificate?", the following is added to the answer:

"When fishery products are stored in a customs warehouse until a commercial decision is taken by the operator with regard to the final destination, the fishery products do not need to be accompanied by a catch certificate. If the final destination is an EU Member State, then the catch certificate must be provided 3 days in advance of the release of the goods in the EU market and not at the time when the products are stored in the customs warehouse."

Frequently asked questions

- In point 5.18 "Frequently asked questions on the practical application of the catch certification scheme"; part A "Scope, formalities, distribution of tasks", under the last question "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?", the first sentence in the answer is amended as follows: "The competent authority of the EU Member State of final destination will be responsible for the verification in accordance with Article 19(1)."
- In point 5.18 "Frequently asked questions on the practical application of the catch certification scheme"; part B "Consignments, processing, re-exportation", under the second question "How must the catch certificate be filled in for a mixed consignment composed by several products from different catches?", the sentence in the answer "If this is composed by products stemming from different catches obtained by different vessels one catch certificate per catch has to be attached" is replaced with the following:
"According to Article 12 (3) of the IUU Regulation (*"The catch certificate shall contain all the information specified in the specimen shown in Annex II and shall be validated by the Flag State of the fishing vessel or fishing vessels which made the catches from which the fishery products have been obtained."*), when a consignment is composed of products stemming from different catches and/or different vessels, one single catch certificate can be used for the whole consignment as long as the required details of each vessel are attached.."
- In point 5.18 "Frequently asked questions on the practical application of the catch certification scheme"; part B "Consignments, processing, re-exportation", under the question "Are copies of catch certificates necessary if a consignment is to be divided for export?", the sentence in the answer "All fishery products contained in the consignment which are not exempt 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" is amended as follows:
"All fishery products, not exempt from the catch certification scheme, in a consignment must be accompanied by one or more validated catch certificate(s)."
- In point 5.18 "Frequently asked questions on the practical application of the catch certification scheme"; part B "Consignments, processing, re-exportation", the following paragraphs are added:
"- Q.: Do originals of the catch certificates always have to accompany the consignments exported to the EU?"

"– A.: Yes, the originals always have to accompany the consignments exported to the EU. There is only one exception to this rule: it is when catches coming from a given third country are processed in another third country and then are divided into different consignments for the exportation. In this case, copies of the original catch certificate can accompany the different consignments, together with the processing statement of Annex IV of the IUU Regulation. For originals, see addition to point 5.17 above. "