

Frequently Asked Questions

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 (“IUU Regulation”)

CHAPTER I – GENERAL PROVISIONS

SCOPE AND DEFINITIONS (Article 1 and 2)

1. What products are covered by the scope of the IUU Regulation?

All products listed in Chapter 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 to the Regulation. These are products excluded from the definition of “fishery products” set out in point 8 of Article 2, such as aquaculture products obtained from fry or larvae, freshwater fish, ornamental fish, mussels, oysters, scallops, snails and other products of minor importance from the perspective of conservation and management measures and trade to the EU.

Products classified in other Chapters of the Combined Nomenclature are not covered in the scope of the IUU Regulation. E.g. Chapter 05: fish waste or other fishery products not fit for human consumption; Chapter 15: fish fats and oils; heading 1603: extracts and juices of fish, crustaceans, molluscs and other aquatic invertebrates; Chapter 19: stuffed pasta containing more than 20% in weight of fish, crustaceans, molluscs and other aquatic invertebrates; Chapter 23: flours, meal and pellets of fish, crustaceans, molluscs and other aquatic invertebrates, fish soluble, fish feed.

2. What is the rationale of selecting certain products to be excluded under Annex I?

Certain fishery products have been excluded from the scope of the IUU Regulation under Annex I and its amendments because 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 EU.

3. Where can we find the Combined Nomenclature codes of the fishery products covered by the IUU Regulation (the list of excluded products in Annex I is very generic).

You can consult TARIC, the database covering all measures relating to tariff, commercial, agricultural and fisheries legislation for import and export. It contains all the goods nomenclature.

https://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=en

The footnote CD590 is included for fishery products, which shall only be imported into the Union when accompanied by a catch certificate.

In addition, the footnote CD669 lists the non-cooperating third countries in fighting IUU fishing (red-carded countries) from which the importation of fishery products caught by fishing vessels flying the flag of these non-cooperating countries is prohibited.

As TARIC is constantly updated, DG MARE cooperates closely with DG TAXUD to keep the list of fishery products covered by the IUU Regulation up to date.

- 4. Processed products containing fish and falling under Chapters other than Chapter 3 and headings 1604 and 1605 of the Combined Nomenclature do not require a catch certificate for import into the EU. However, do processed products with less than 20% of fishery products' content still require catch certificates? Or are they deemed exempt?**

According to the definition of fishery products laid down in Article 2.8 of the IUU Regulation, all products falling under Chapter 3 and Tariff headings 1604 and 1605 of the Combined Nomenclature, with the exception of the products listed in Annex I of the Regulation (as last amended) are covered by the Catch Certification Scheme.

Products containing less than 20% of fish component are not classified according to custom's rules under heading 1604/1605. This is established in the introduction of Chapter 16 in the Combined Nomenclature (Council Regulation (EEC) 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff as last amended).

Consequently, catch certificates are not required for products with less than 20% of fishery products in its composition.

- 5. Are imports of small consignments or samples of fishery products imported in the EU from third countries subject to the requirements of the IUU Regulation?**

Yes, there are no exceptions in the IUU Regulation for small consignments or samples, therefore, they are subject to Chapter III requirements, and a catch certificate shall be provided upon importation.

Checks and possible verifications with regard to such consignments shall be based on risk management.

- 6. Are Outermost Regions (ORs) (Guadeloupe, French Guiana, la Réunion, Martinique, Mayotte and Saint-Martin (France), the Azores and Madeira (Portugal), and the Canary Islands (Spain)) subject to a specific status under the IUU Regulation?**

For the purpose of the IUU Regulation, the Outermost Regions have the same status as any other territories of the EU.

- 7. Are Overseas Countries and Territories¹ (OCTs) subject to a specific status under the IUU Regulation?**

Overseas Countries and Territories are neither part of the EU territory nor of the EU single market and are therefore, considered as third countries under the IUU Regulation. OCTs must therefore implement the IUU Regulation like any other third country, i.e. ensure the fishery products are caught in compliance with the relevant conservation and management rules, and accompanied by a catch certificate, in conformity with the IUU Regulation, to be traded, directly or indirectly, with the EU.

CHAPTER II – INSPECTION OF THIRD COUNTRY FISHING VESSELS IN MEMBER STATES PORTS

¹ Aruba (NL), Bonaire (NL), Curaçao (NL), French Polynesia (FR), French Southern and Antarctic Territories (FR), Greenland (DK), New Caledonia and Dependencies (FR), Saba (NL), Saint Barthélemy (FR), Sint Eustatius (NL), Sint Maarten (NL), St. Pierre and Miquelon (FR), Wallis and Futuna Islands (FR).

INSPECTION IN PORT SCHEMES (Article 4)

8. Are container vessels included in the scope of the definition of fishing vessels in Article 2 (5) and therefore subject to the provisions established in Chapter II?

No, container vessels fall outside the definition of fishing vessels and therefore, are not subject to the provisions established in Chapter II. However, all marine fishery products imported into the Union, with the exception of the products listed in Annex I of the IUU Regulation, must be accompanied by a catch certificate regardless of the mode of transportation to the EU (by any type of vessel, by airfreight, by road, railway...).

9. Do provisions established in Chapter II of the IUU Regulation apply to third country carrier vessels equipped to transport fishery products while transporting non-fishery products (fruits, poultry, etc.)? Do such vessels have to use only designated ports as foreseen under Article 5 and fulfil requirements set in Articles 6 and 7?

Yes, Member State have to apply port State measures established in Chapter II of the IUU Regulation to all the third country fishing vessels, irrespectively of the actual cargo. A third country fishing vessel shall be granted authorisation to access the port only if the information set out in Article 6.1 is complete and, if the third country vessel carries on board fishery products, such information should be accompanied by the catch certificate.

Article 2.5 of the IUU Regulation defines ‘fishing vessel’ as any vessel of any size used or intended for use for the purpose of commercial exploitation of fishery products, and establishes a list including, inter alia, carrier vessels equipped for the transportation of fishery products, with the exception of container transport.

Consequently, third countries’ flagged carrier vessels equipped to transport fishing products, regardless to the actual cargo on board, should fulfil the conditions for access to EU ports by third country fishing vessels (entry in designated ports, prior notice, authorisation for access and use of ports, recording of landing and transshipment operations and port inspections). These measures apply also irrespectively of the concrete use of the port (landing, transshipping, processing, refuelling, resupplying etc.).

In particular, the application of prior notice requirements to carrier vessels equipped to transport fishery products, even when they do not transport fish, provides the port States authorities with all the necessary information to apply risk assessment criteria to conduct if needed, an inspection to the vessel when arrived into the port. This is with the ultimate objective of deterring and eliminating introduction of IUU products to EU ports and market.

10. Can third countries’ fishing vessels enter any EU port under “force majeure”? Do IUU notification or documentary requirements apply in such cases?

Yes, port entry in case of “force majeure”, as described in Article 4.2 of the IUU Regulation, can be requested also to non-designated ports. However, vessels should be allowed to enter “exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress” (according to the Port State Measures Agreement - PSMA). If the operator of the vessel further wishes to use port services for other purposes (e.g. landing), the vessel shall go to a designated port and follow all applicable rules. In case of access to any port under force majeure, prior notice and documentary requirements, do not apply.

DESIGNATED PORTS (Article 5)

- 11. Is a third country fishing vessel that has no fish on board allowed to enter a non-designated port to carry out repairs on the quay or maintenance / repairs in the shipyard, or for any other reason?**

Article 5.2 of the IUU Regulation states, that “*access to port services [.....] by third country fishing vessels shall be authorised only in designated ports*”. Designated ports have to be used regardless if the vessels carry fish on board or not. The only exception applies in case of “force majeure” (see Q10).

PRIOR NOTICE (Article 6)

- 12. Can you please provide the legal basis for the different deadlines of presenting the information described in Article 6?**

The general deadline of at least 3 working days is established in Article 6.1 of the IUU Regulation.

The 4 hours minimum deadline for fresh products is laid down in Article 1 and Annex I of Commission Regulation (EC) No 1010/2009.

Special provisions may apply if established in fisheries agreements concluded between the EU and third countries in accordance with Article 6.4.

- 13. How is the prior notification period applied when fresh and frozen catches are landed from the same vessel?**

For the frozen products the normal deadline of at least 3 working days applies (Articles 6.1, 16.1 of the IUU Regulation).

For the fresh products, the reduced prior notification period of 4 hours minimum applies (Article 1 and Annex I of Commission Regulation (EC) No 1010/2009).

In case both, fresh and frozen fishery products are obtained during the same fishing trip, the prior notification period of 4 hours minimum shall apply.

- 14. In case where different legal requirements are in place, e.g. prior notification deadline for the frozen products in the IUU Regulation is 3 working days, whereas in NEAFC it is 24 hours, which regulation applies (IUU or NEAFC)?**

All applicable legal requirements have to be respected, since the different schemes run in parallel. Thus, in the mentioned case of direct landings of frozen products, the notification deadline of at least 3 working days applies under the IUU Regulation (Articles 6.1), even if NEAFC requests a shorter timeline.

- 15. Is a catch certificate needed in case a third country flagged reefer calling to an EU designated port with fish on board will not be unloading or transhipping third country fish in an EU port, but only loading additional EU-caught fishery products for subsequent shipment of all products to another third country for human consumption?**

Yes, a catch certificate for the third country fish is always required in case of access of a third country fishing vessel² to an EU designated port, regardless of the destination of the on-board fish, as established in Article 6.2 of the IUU Regulation. In addition, the master of the

² Note that cargo vessels transporting fish in containers are excluded from the definition of fishing vessels.

vessel needs to provide to the competent port authorities all the information required under Article 6.1.

16. Is a catch certificate needed in case a third country flagged reefer calls to an EU designated port with fishery products caught by EU Member States' vessels on board?

Article 6.2 says that, if a third country fishing vessel calling to an EU designated port carries on board fishery products, the pre-notification shall be accompanied by a catch certificate. It does not distinguish between EU fish or third country fish.

However, if the provisions described in Q27 in relation to the proof of Union status of the fishery products are followed, the catch certificate is not required.

17. If a reefer (or other fishing vessel) flying the flag of an EU Member State enters a port in an EU Member State with fish from a third country vessel, is it subject to the provisions of Articles 5 and 6? Does it have to enter in a designated port? Does this fish need to be accompanied by catch certificate? And if it is only transiting and the fish is not intended to the EU market?

In case that the reefer is flying the flag of an EU Member State, Articles 5 and 6 are not applicable (they apply only to third country vessels), therefore it is not compulsory that the reefer enters in a designated port. However, Article 16 applies for the third country fish and a catch certificate should be submitted to the Member State authority when the fish is intended for free circulation in the Union. If the vessel is only in transit and the final destination is another third country, a catch certificate is not required (in line with the approach of Q38).

PROCEDURE IN THE EVENT OF INFRINGEMENTS (Article 11)

18. Can you please elaborate on the transfer of jurisdiction from flag State to port State referred to in Article 11.4 of the IUU Regulation in the understanding that where a third country vessel enters a port, it does so voluntary and whilst in the port it is subject to the sovereignty of that State?

Article 11.4 states that, in case a third country fishing vessel entered a Union port and such vessel is suspected to have committed a breach of applicable conservation and management measures outside Union waters, the flag State (if the breach was in high seas) or the coastal State (if the breach was in its waters) may transfer its jurisdiction on the investigation and right to sanction to the port State. In such case, the port State would act on behalf of the flag or the coastal State.

The port State shall sanction as serious infringement the fact that the vessel introduced into its territory IUU fishery products (Article 41.3, Article 42.1(b) IUU Regulation).

CHAPTER III – CATCH CERTIFICATION SCHEME FOR IMPORTATION AND EXPORTATION OF FISHERY PRODUCTS

CATCH CERTIFICATES (Article 12)

19. 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, does the consignment need to be accompanied by one or by several catch certificates?

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, one single catch certificate can be issued for the whole consignment, as long as the required details of each vessel are reflected in the catch certificate and all the catching vessels are flying the same flag of the country issuing the catch certificate.

20. How to deal with consignments composed of different species stemming from the same catch?

A catch certificate should be requested from the exporter on a consignment basis and there is no restriction for a consignment to contain several species. Therefore, if more than one species are included in one consignment stemming from one catch, one catch certificate can be issued including the different species.

21. Which authority validates the catch certificate for catches taken by vessels flagged to one country in the EEZ of another country?

The flag State should always validate the catch certificate (box No. 9). However, the IUU Regulation does not impose any obligations on how the verifications for the certification must be carried out. The organisation of the validation procedure is the competence of the third country and depends on the national control systems.

22. Which country validates the catch certificate if the vessel is chartered to another country?

Only a flag State can validate a catch certificate for products destined to the EU. It is the responsibility of all flag States to exercise its jurisdiction and control over their vessels (UNCLOS, Article 94). This applies to fishing vessels chartered to another country as well.

23. In case of direct landings³ in Union ports of fishery products from third countries' fishing vessels, how to proceed if upon landing the verified weight exceeds the weight mentioned in the catch certificate? Can there be two catch certificates for the same landing? One containing the estimate weight calculated by the master, and a second covering the fish landed in excess of the estimate?

Yes, indeed, it is possible for the operator to request an additional catch certificate from the flag State of the catching vessel for the exceeding quantity. There is no margin of tolerance foreseen in the IUU Regulation. The total quantity of fish imported in the EU has to be covered by a catch certificate.

³ Please note that landings in Union ports of fishery products (caught by third countries' fishing vessels), that have been transhipped in third countries' ports onto a reefer vessel, are considered as direct landing as the exact weights of such products have not been established (are estimates).

It is important to note that the initial catch certificate cannot be amended, it should be replaced by another one which should make reference to the original one (the latter should be rendered invalid).

Either the flag State authority can validate an additional catch certificate for the exceeding quantity or it can cancel the original catch certificate and validate a new one with the correct (landed) quantities. (See also Q57).

24. In the case described in Q23, since none of these 'new' supplementary catch certificates have been supplied 3 days /4 hours before landing, would this imply non-compliance with EU IUU Regulation?

No, if the prior notification foreseen in Article 6 was respected for the submission of the catch certificate with the estimated weight. However, the exceeding quantities cannot be imported until the validated additional catch certificate covering such exceeding quantities is submitted.

INDIRECT IMPORTATION (Article 14)

25. In case of indirect transportation (Article 14.1), which competent authorities in third countries have to issue the document referred to under 14.1(b) (ii)? Only customs?

In Article 14.1 of the IUU Regulation, there is no indication of the authority that should issue this document; therefore, any competent authority in the third country is entitled to do it. However, it is reasonable to assume that customs authorities are better positioned to issue such document.

26. What happens in case of indirect export if the consignment is split in a third country other than the flag or processing State (Article 14.1 scenario)?

Each buyer of part of the consignment being split in a third country other than the flag or processing State should receive a copy of the catch certificate (together with copies of the processing statement, if relevant).

The importers in the EU of each part of the split consignment should submit the copy of the catch certificate (and the processing statement, if relevant) to the competent authorities of the Member States and shall also submit the documents described in Article 14.1(b) to ensure appropriate identification of the products.

27. Is a catch certificate necessary for catches made by fishing vessels flying the flag of EU Member States going in transit via a third country prior to their arrival to the EU? Example: EU vessels landing in a third country and transporting their catches by truck in transit to the EU.

In case that the products in transit comply with the provisions established in the Union Customs Code related to the status of Union goods, no catch certificate is required.

The status of Union goods of the products has to be proven via the available catch documentation and reporting (fishing logbook, landing declaration, transshipment declaration

and vessel monitoring system data, as appropriate)⁴ as foreseen in the Fisheries Control Regulation⁵. This must be accompanied by an endorsement by the customs authority of the third country certifying that goods were under customs supervision while in that country and have undergone no handling other than that necessary for their preservation. Since the products are not imported into the third country but just crossing in transit under customs supervision, this “land-bridge” does not change their Union goods status.

28. Is a catch certificate necessary for catches made by fishing vessels flying the flag of EU Member States, transhipped or landed in a third country port and sent by reefer or container vessel to the EU?

In case that the products transhipped or landed in a third country comply with the provisions established in the Union Customs Code related to the status of Union goods, no catch certificate is required.

The status of Union goods of the products has to be proven via the available catch documentation and reporting (fishing logbook, transshipment declaration landing declaration and vessel monitoring system data, as appropriate)⁴ as foreseen in the Fisheries Control Regulation.

29. Which documentation would be needed if a third country company buys products from catches made by fishing vessels flying the flag of EU Member States (country A) for which some processing is done in country B and then they are further processed in country C before the final products are imported into the EU?

This is a case of indirect importation with processing in third countries, described in Article 14.2 of the IUU Regulation.

In this situation, upon importation to the EU, the importer needs to present the relevant catch certificate(s) validated by the flag State of the vessel which caught the fish used as raw material (country A), accompanied by two Annexes IV (processing statements), endorsed by the competent authorities in the two third countries where the processing took place (countries B and C). Both Annexes IV should refer to the same catch certificate.

Transport details (Appendix to the catch certificate) need also to be submitted (signed by the exporter, i.e. the operator signing box 8 of the catch certificate).

In case there are doubts whether the products intended for importation to the EU are the same as those mentioned in the catch certificate and related processing statements, the competent Member State authority should request the importer to submit any necessary information to ensure a correct identification of such products. These can include invoices, bills of lading, etc. related to each movement of the products along the supply chain, in particular related to the movement of the products from the country of first processing (country B) to the country of second processing (country C).

30. Who is responsible to provide the transport details in case the fish caught by fishing vessels flying the flag of EU Member States (country A) is processed in country B and

⁴ See Art 199 (1) (e) of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015, laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015)

⁵ 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 (OJ L 343, 22.12.2009)

then it is further processed in country C before the final products are imported into the EU?

The exporter (i.e. the operator signing box 8 of the catch certificate) is responsible to fill in and sign the transport details included in the Appendix to the catch certificate, indicating the port or place of departure and the means of transport.

The importer in the EU shall submit the catch certificate(s) with the Appendix and the processing statements endorsed by the authorities of the two third countries where the processing has taken place (countries B and C) to the competent authority in the Member State.

In case there are doubts whether the products intended for importation are the same as those mentioned in the catch certificate and processing statements, the competent Member State authority should request the importer to submit any necessary information to ensure a correct identification of such products. These can include invoices, bills of lading, etc. related to each movement of the products along the supply chain, in particular related to the movement of the products from the country of first processing (country B) to the country of second processing (country C).

31. If fresh fish is landed in a country other than the flag State, and then it is frozen in this country before being exported to the EU, shall the importer in the EU submit a processing statement (Annex IV) issued by the establishment where the fish was frozen?

Yes, freezing is defined as processing according to Article 4.21 of the Fisheries Control Regulation; therefore, the processing statement (Annex IV) is required.

32. What happens if: fish caught by a fishing vessel flying the flag of non-EU country A is landed into non-EU country B; a catch certificate is validated by country A for the quantities landed in country B; the fish is sold to different processors in country B; and subsequently the products processed by different processors are exported to the EU?

Each processor in country B shall receive a copy of the catch certificate. The processing statements (Annex IV) filled by each processor and endorsed by country B authorities shall make reference to the catch certificate validated by country A and indicate the quantity of the fish included in the catch certificate that has been processed.

SUBMISSION AND CHECKS OF CATCH CERTIFICATES (Article 16)

33. What are the deadlines for the submission of catch certificates?

In general, the importer must submit the catch certificates 3 working days before the arrival at the place of entry into the territory of the Union to the competent authorities of the Member State in which the product is intended to be released into free circulation.

However, for fresh fishery products landed from third country fishing vessels in designated Union ports, the importer must submit the catch certificates 4 hours before the estimated time of arrival to port.

Consignments arriving by airfreight, road or railway are subject to shorter deadlines (as established in Article 8 of Commission Regulation (EC) No 1010/2009 and its Annex VI). The importer must submit the catch certificates for consignments arriving by air or rail 4 hours prior to entry into the Union and for those entering by road 2 hours in advance.

34. Who carries out the checks of the catch certificates as foreseen in Article 16.1?

In general, the competent authorities of the Member State in which the product is intended to be released into free circulation (including end-use procedures) carry out the checks of the catch certificates.

In case of inward processing, the checks are carried out by the competent authorities of the Member State in which the product is placed under inward processing.

For fishery products transhipped or landed from third country fishing vessels in designated Union ports, not destined to be released into free circulation and leaving the Union from the port Member State concerned, the checks are carried out by the competent authorities of that port Member State.

35. Do fishery products (obtained from catches of fishing vessels flying the flag of a third country) placed in customs warehouse or introduced in a free zone (customs storage) in an EU Member State need a catch certificate?

Yes, in case such fishery products arrive on board fishing vessels at an EU designated port, the conditions of Chapter II of the IUU Regulation apply and a catch certificate is always required.

If the fishery products obtained from catches of fishing vessels flying the flag of a third country arrive in containers, they will require a catch certificate if they are intended to be released into free circulation (including end-use procedures) or placed into inward processing in the Union after the storage.

Fishery products obtained from catches of fishing vessels flying the flag of a third country that arrive in containers, are placed in customs warehouse or in a free zone but are intended to leave the Union after the storage, do not require a catch certificate.

36. Do Member State competent authorities need to check catch certificates related to fishery products (obtained from catches of fishing vessels flying the flag of a third country) placed under customs storage but eventually leaving the Union?

Fishery products which are not intended for free circulation in the EU market (including end-use procedures) or placed into inward processing, do not require catch certificates, when they arrive in containers.

However, fishery products landed from third country fishing vessels in designated Union ports always require catch certificates, even if they are placed under customs storage and subsequently leave the Union. In such case, the catch certificate shall be submitted by the person responsible for the consignment while it stays in the Union territory (i.e. responsible for the entry/handling/movement/storage of the products, e.g. agent, freight forwarder) to the competent authorities of the port Member State concerned.

37. A container vessel, which carries fishery products (obtained from catches of fishing vessels flying the flag of a third country), enters a free zone (first entry in EU) for landing or loading other goods. The fishery products remain on the container vessel and continue in transit to another Member State or a third country. Is the submission of a catch certificate required in accordance with Article 16 of the IUU Regulation?

In case the container vessel which carries fishery products is in transit to a third country through a free zone, a catch certificate is not required.

In case the fishery products are unloaded in the second Member State to be released into free circulation, a catch certificate is required. In this circumstance, the submission and check of the catch certificate should be done in the Member State where the release into free circulation (or placing under inward processing) is meant to take place.

38. Do fish transported in containers in transit through a Union Member State need a catch certificate if such goods are then destined to leave the Union?

No, fishery products which are not intended for free circulation in the EU market (including end-use procedures) or placed into inward processing, do not require catch certificates, when they arrive in containers.

39. For the purpose of implementing the Catch Certification Scheme, who is the importer?

In general, the importer is the person responsible for the release into free circulation (or inward processing) of the products, or his legal representative.

In case fishery products are transhipped or landed from third country fishing vessels in designated Union ports but not destined to be released into free circulation, the importer is the person responsible for the consignment while it stays in the Union territory (i.e. responsible for the entry/handling/movement/storage of the products, e.g. agent, freight forwarder).

VERIFICATIONS (Article 17)

40. When should EU Member States conduct verifications of catch certificates?

Authorities of EU Member States may carry out all verifications they deem necessary to ensure that the provisions of the IUU Regulation are correctly applied. Verifications shall be always carried out in cases foreseen under Article 17.4 and can also be carried out randomly.

They can consist of examining the fishery products, the authenticity of the documents, inspection of transport means, containers and storage areas etc.

They shall focus on risk identified by application of criteria established either under national legislation or under the Union criteria as laid down in Article 31 of the Commission Regulation (EC) No 1010/2009.

For the purpose of verification, the competent authorities of the EU Member States may request, in accordance with Article 17.6, the assistance of the competent authorities of the flag State and also of the processing third country when they have doubts about the validity of the catch certificate or the processing statement and the compliance with conservation and management rules. If need be, coastal and port States concerned may also be contacted.

The flag State authorities that validated catch certificate shall reply to the verification request within 15 days. An additional deadline of 15 days can be requested.

TRANSIT AND TRANSHIPMENT (Article 19)

41. In case of transit of products according to Article 19.1 from the Member State of entry to another Member State, from which moment does the deadline of 3 working days (Article 16.1) start?

The importer has to submit the validated catch certificate and related documents at least 3 working days before the estimated time of arrival at the place of entry into the territory of the Union, i.e. the first Member State of entry into the EU. They have to be submitted to the competent authorities of the Member State in which the product is intended to be released into free circulation or placed under inward processing.

For fresh fishery products landed from third country fishing vessels in designated Union ports, the importer must submit the catch certificates 4 hours before the estimated arrival to port.

Specific provisions referred to in Article 8 and Annex VI of the IUU Implementing Regulation (EC) No 1010/2009 also apply.

42. When a lorry with fishery products (obtained from catches of fishing vessels flying the flag of a third country) arrives to a Member State of entry by road and goes in transit to another Member State for release into free circulation, does the importer need to submit the catch certificate at the point of entry into the EU territory?

No, it is not necessary for the importer to submit the catch certificate to the authorities of the Member State of entry.

According to Article 16.1, the importer has to submit the catch certificate to the competent authorities of the Member State in which the product is intended to be imported. In this context imported is considered release into free circulation.

The catch certificate shall be submitted to the Member State authorities of destination 2 hours before the estimated time of arrival of the lorry at the place of entry into the territory of the Union (in line with Article 8 and Annex VI of the IUU Implementing Regulation (EC) No 1010/2009).

The competent authorities of the Member State of entry may ask for a copy of the catch certificate, however, the provisions of Articles 17 and 18 shall be implemented in the Member State of destination.

43. When a container with fishery products (obtained from catches of fishing vessels flying the flag of a third country) arrives to a Member State port of entry in a carrier vessel and goes in transit by road to another Member State for release into free circulation, does the importer need to submit the catch certificate at the point of entry into the EU territory?

No, it is not necessary for the importer to submit the catch certificate to the authorities of the Member State of entry.

According to Article 16.1, the importer has to submit the catch certificate to the competent authorities of the Member State where the product is intended to be imported. In this context imported is considered release into free circulation.

The competent authorities of the Member State of entry may ask for a copy of the catch certificate, however, the provisions of Articles 17 and 18 shall be implemented in the Member State of destination.

44. In case of landlocked Member States, almost all fishery products arrive under transit procedure before they are released in free circulation. Who does the verification in such cases?

The importer has to submit the catch certificate to the competent authorities of the Member State where the products are meant to be released into free circulation. Verifications (Article 17) have to be carried out in that Member State of final destination.

45. In case of fishery products (obtained from catches of fishing vessels flying the flag of a third country) arriving to one Member State (of entry) in container and going in transit to a customs warehouse in another Member State, who should carry out the checks and related verifications?

The importer has to submit the catch certificate to the competent authorities of the Member State where the products are meant to be released in free circulation or inward processing. The checks and related verifications (Article 17) have to be carried out in that Member State. If the products are not released into free circulation but sent to a third country after being in a customs warehouse, there is no need to submit a catch certificate.

FLAG STATE NOTIFICATIONS (Article 20)

46. With regard to the provisions of Article 20 (Flag State Notification), can the catches made before the time the notification is accepted by the Commission be imported into the EU with a catch certificate?

Flag State Notifications are valid from the date where they are made publicly available on the DG MARE website and in the EU Official Journal. The Commission informs the flag State of the receipt of the notification and the starting date of validity.

This means that fishery products caught before 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 before the notification is not allowed.

RE-EXPORTATION (Article 21)

47. In which situations is the re-export certificate validated?

When fishery products (accompanied by a catch certificate) are imported into the EU and then re-exported from the EU (with or without processing taking place in the EU). This certification is particularly important to ensure traceability of the re-exported products that are processed in a third country and then sent back to the EU.

The re-export certificate should be validated by the Member State from which the re-exportation takes place, indicating the part of the products imported that are included in the exported products.

48. What should the competent authority check for validation of re-export certificates?

The checks for the validation of the re-export certificate shall aim at ensuring the correct identification of the goods concerned (i.e. that the goods meant to be re-exported are those having been previously imported into the EU under this catch certificate). The information contained in the relevant catch certificate(s) and the information and labelling requirements (as required by the traceability provisions laid down in Article 58 of the Fisheries Control Regulation) are the elements to be submitted by the exporter and checked by the competent authority prior to the validation of the re-export certificate.

CATCH CERTIFICATE – ANNEX II

49. 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?

Annex II is legally binding in its content. The format of the catch certificate can be adapted by the third countries' authorities, as long as the template is communicated to the European Commission, in the framework of the notification procedure under Article 20.

The Commission shall inform the EU Member States accordingly following Article 51 of the IUU Regulation. Operators are not authorised to change or amend this template.

50. In what language should the catch certificate be issued?

The catch certificate must be in one of the official EU languages. The flag State however is free to create bilingual versions and inform the European Commission thereof.

51. Who has to fill in the different parts of the catch certificate?

The exporter is responsible to ensure that the information included in the catch certificate is true and to submit the catch certificate to the competent authority of the flag State for validation.

The exporter must fill the catch certificate with all the information required in boxes 2 to 8 (box 6 and/or 7 only if transshipment took place), and present it to the competent authority of the flag State.

Box 5 shall include the signature of the master of the fishing vessel (or the fishing licence holder).

In case of transshipment at sea, box 6 shall contain the signatures of the masters of both the fishing vessel (or the representative of the fishing licence holder) and receiving vessel (or the representative of the relevant transport company).

In case of transshipments in ports, box 7 shall contain the stamp of the port authorities concerned.

If the authority of the flag State is satisfied with the information provided in the catch certificate and has no grounds to doubt its accuracy and veracity and the compliance with applicable management and conservation measures, it should complete box 1 ("Document Number" and "Validating Authority") and box 9 ("Flag State Authority Validation") and return it to the exporter.

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.

The exporter must send the original catch certificate, including the Appendix with the transport details, to the importer in the EU, who will have to submit it to the authorities of the EU Member State of importation three working days before the estimated time of arrival at the place of entry into the territory of the Union (or when applicable, the deadlines established in Article 8 of Commission Regulation (EC) No 1010/2009).

52. Can the catch certificate be signed after the products have left the flag State? E.g., fish caught by fishing vessels flagged to one country (EU Member State or third country) goes for processing to another third country and then it is exported to the EU with the processing statement from the processing State and the catch certificate from the flag State. Can in such situation the catch certificate be signed after the fish was shipped (i.e. exported) from the processing State with destination EU?

There is no provision in the IUU Regulation that establishes that the catch certificate has to be validated by the flag State before the products leave the exporting country. However, if it is found after the departure of the product that it does not qualify for the validation of a catch certificate, companies involved in this shipment will have to support all costs related to its rejection at EU border. It is therefore recommended that the catch certificate is obtained prior to the shipment to the EU.

53. Do originals of the catch certificates always have to be provided for the each consignment exported to the EU?

Yes, the originals always have to be provided for the consignments exported to the EU. There are, however, exceptions to this rule: when catches coming from a given third country are processed in another third country and then divided into different consignments for the exportation. In such cases, the exporter can provide the importer with copies of the original catch certificate for the different consignments, to be attached to the processing statement (Annex IV).

This situation can also take place in cases of consignments that are split into several consignments during the voyage from the exportation point prior to the arrival to the EU. In this case, copies of the original catch certificate can be produced for each of the split consignments and be attached to document described in Article 14.1(b).

54. If a consignment of fishery products arrives to one Member State with the original catch certificate, and then part of the consignment is sent to a second Member State and part to a third Member State, which Member State should retain the original catch certificate?

In this situation, the Member State of entry keeps the original catch certificate and produces copies for the Member States that receive parts of the consignment.

BOX 3 – DESCRIPTION OF THE PRODUCT

55. Can a consignment containing both processed and non-processed fishery products be covered by one single catch certificate?

If the flag of the catching vessel is the same as the country of processing, both processed and non-processed fishery products can be covered by the same catch certificate. Box 3 of the catch certificate can contain different product codes covering both processed and unprocessed products.

WEIGHT BOXES

56. For fishery products coming from third countries to the EU by lorry, is there a need to weigh all the products before the transport?

Yes, for lorries containing fish caught by third country fishing vessels, exact quantities need to be indicated in the catch certificate, respecting the submission periods established in the provisions of Article 8 and Annex VI of the Commission Regulation (EC) No 1010/2009.

In the case of lorries containing fish caught by EU fishing vessels, landed in a third country and then coming to the Union by road, without prejudice to the national requirements in place in the third country the lorry is departing from, there is not an explicit provision in the Fisheries Control Regulation, mandating to weigh fish caught by Union fishing vessels upon landing in a third country prior its transportation to the Union. However, there is an obligation for masters of Union fishing vessels to report accurate quantities in the landing declaration (Article 23.4 of the Fisheries Control Regulation).

Notwithstanding the above, in this case the operator has to demonstrate to customs the status of the products as Union goods, as foreseen in the Union Customs Code and its Delegated and Implementing Regulations (in particular Article 213 of Implementing Regulation 2015/2447). This is done with the fishing logbook, landing declaration and vessel

monitoring system data, as appropriate. This implies a need to weigh the consignment in order for these documents to be accurate.

57. How and when to fill the weight boxes of Box 3 of the catch certificate?

The catch certificate shall include accurate information of the weight of fishery products that it covers. Therefore, the correct and common understanding of the figures that have to be included in each of the weight boxes of box 3 of the catch certificate is very important.

1. In case the fish is directly landed in the EU, the weight of the fish to be landed should be included in the box “**Estimated weight to be landed**” of the catch certificate accompanying the consignment. Such weight must be the most accurate information available based on logbook / transhipment declaration data.

- Upon landing, in the absence of port inspection, the actual weight landed is established by the operator prior to storage, transport or sale. If there is a discrepancy between the estimated weight to be landed and the measured weight landed, the operator should immediately report this information to the flag State authority and to the Member State authorities in charge of the controls under the IUU Regulation.

The consignment will not be accepted by the EU Member State competent authority until the moment the importer submits a catch certificate for the quantities exceeding the weight covered by the initial catch certificate. In such case, the flag State authority has to either:

- a) cancel the initial catch certificate and validate a new one with the correct (landed) quantities in the box “estimated weight to be landed”, or
- b) validate an additional catch certificate for the extra quantities recorded upon landing. The box “estimated weight to be landed” shall also be used for this additional catch certificate.

- Upon landing, in cases of inspection at landing involving weighing, the information on the verified weight landed should be immediately provided by the operator to the flag State authority. The competent authorities of the Member State that carried out the inspection shall transmit the inspection report to the flag State expeditiously. In case of discrepancy between the estimated weight to be landed and the verified weight, the flag State authority has to cancel the original catch certificate and validate a new one with the correct (landed and verified) quantities in the box “**verified weight landed**”.

2. In case of landings of fish in third countries, with the fish subsequently transported to the EU (with or without prior processing in a third country), the catch certificate must cover, to the extent possible, the consignment exported to the EU.

The weight shall always be the most accurate weight available at the moment the catch certificate is issued (i.e. using landing / sizing weight data rather than initial estimates by the fishing vessel).

- If the whole quantity of fish caught by a fishing vessel during a fishing trip is landed at once and constitutes a single consignment to the EU (without movement / manipulation / processing), data based on the landing declaration or data provided

by operators after landing shall be provided in box “**estimated weight to be landed**”;

- If the fish caught by a fishing vessel during a fishing trip is subject to partial landings in one or more third countries, the box “**estimated live weight**” is to be used in relation to the quantities constituting a consignment destined to the EU (with or without movement / manipulation / processing);
 - In case of products processed in the flag State prior to exportation to the EU, the weight of the product to be exported should be presented in the box “estimated live weight”.
 - In case of products processed in a third country other than the flag State of the catching vessel, in addition to the catch certificate, a processing statement (Annex IV) must be endorsed in the processing third country. The catch certificate relevant to such consignment must contain in the box “estimated live weight” the most accurate and reliable information available on the products purchased by the processor and intended for processing in view of exportation of the final products to the EU.

Depending on the supplies of the processing plant, there could be several catch certificates related to one Annex IV. The link between the products referred to in the catch certificate, the amounts used for processing and the weight of the final product has to be established in the table laid down in Annex IV.

In all cases of landings in third countries, the box “verified weight landed” should only be used in addition to the box “estimated live weight”. Moreover, in case of landings in third countries other than flag States, this box shall be used only when appropriate cooperation and control mechanisms exist between the flag State and the port State and ensure that the flag State validating authority receives official and reliable information verified by the port State authorities.

58. What weight has to be indicated (net/gross)?

While the kind of weight (net weight/gross weight) is not indicated in the catch certificate template, it is recommended to always indicate the net weight. Such weight is not necessarily the weight of the imported product, data provided shall always refer to the weight of the fish contained in the product. The catch certificate accompanies customs and sanitary documents in which the exact weight of the imported products is provided.

BOX 5 – NAME OF MASTER OF FISHING VESSELS – SIGNATURE – SEAL:

59. Can the exporter sign box 5 of the catch certificate on behalf of the master of the fishing vessel?

No, this box should be signed by the master of the fishing vessel or the fishing licence holder.

BOX 6 – DECLARATION OF TRANSHIPMENT AT SEA

60. Who has to sign in this box?

The master of the fishing vessel or the fishing licence holder and the master of the receiving vessel or the representative of the relevant transport company.

BOX 9 – FLAG STATE AUTHORITY VALIDATION

61. Must copies of the catch certificate be validated?

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

NEW

62. Can box 9 be signed before the exporter signs box 8?

No, the correct procedure is that first exporter (filling in all relevant information) signs box 8 and then submits the catch certificate to the competent authority that validates box 9.

TRANSPORT DETAILS - APPENDIX

63. At the time of validation of the catch certificate, very probably the complete transport chain is not yet known/established. How and when all the information with the transport details for all transport stages should be presented?

The Appendix with the transport details shall be signed by the exporter (i.e. the operator signing box 8 of the catch certificate), indicating the port or place of departure and the means of transport. In case the trip has several stages, the importer should provide transport documents for each of the stages of the trip if he has this information.

In case there are doubts whether the products intended for importation to the EU are the same as those mentioned in the catch certificate and related processing statement(s), the competent Member State authority should request the importer to submit any necessary information to ensure a correct identification of such products. These can include invoices, bills of lading, etc. related to each movement of the products along the supply chain.

64. Who is responsible to ensure the accuracy of the Appendix with the transport details?

The exporter is responsible to fill in the transport details included in the Appendix to the catch certificate, indicating the port or place of departure and the means of transport.

The importer in the EU shall submit to the competent authority in the Member State the catch certificate(s) with the Appendix and the processing statement endorsed by the authorities of the third country where the processing has taken place.

In case there are doubts whether the products intended for importation are the same as those mentioned in the catch certificate and processing statement, the competent Member State authority should request the importer to present any necessary information to ensure a correct identification of such products. These can include invoices, bills of lading, etc. related to each movement of the products along the supply chain.

BOX 11 - IMPORTER DECLARATION

65. Can agents/agencies representing importers fill in the importer declaration? Whose data should then be put in the relevant boxes, agents or represented companies? Can the agents use their own stamp in importer declaration?

When goods are destined for release into free circulation or inward processing, the importer should always be referred to in the importer declaration box 11.

However, legal representatives of the importer (e.g. customs agents) can fill box 11 on behalf of the importer. In this case, the representative shall provide the name and address of the importer as well as its own name and address. They can use the stamp of the represented importer or their own stamps. Legal representatives acting on behalf of the importer are equally responsible of the content of the submitted information.

In case fishery products are transhipped or landed from third country fishing vessels in designated Union ports but not destined to be released into free circulation or inward processing, the importer is the person responsible for the consignment while it stays in the Union territory (i.e. responsible for the entry/handling/movement/storage of the, e.g. agent, freight forwarder). It will be his responsibility to fill box 11 and submit the catch certificate to the competent authority.

66. Who should sign the importer declaration in case of direct landings and fish sold in auctions?

In this specific case, the person responsible for the customs procedures (e.g. customs agent located in the Union being the legal representative of the owner of the fish) should fill in and sign the importer declaration and submit the catch certificate to the relevant competent authority.

NEW

BOX12 - IMPORT CONTROL – AUTHORITY

67. Should the competent Member States' authorities fill box 12 for all catch certificates?

Yes, this is the proof that the catch certificate has been controlled by the authority prior to importation.

PROCESSING STATEMENTS – ANNEX IV

68. Can a third country endorse the processing statement (Annex IV) after the processed fish has been shipped to the EU?

In accordance with Article 16.1, importers shall submit to the competent authorities of the Member State in which the consignment is intended to be imported the catch certificate and the related documents, including the processing statement (Annex IV), 3 days before the estimated time of arrival at the place of entry into the territory of the Union.

The IUU Regulation does not specifically say that a third country cannot endorse the processing statement after the products have left the country.

Nevertheless, information contained in the submitted catch certificate and processing statement needs to be accurate and validated/endorsed by the competent authorities. In case the third country competent authorities endorse the Annex IV after the departure of the goods from the country of processing, the consignment could be subject to specific verifications upon importation in the EU, based on risk analysis.

69. Can a processing statement (Annex IV) be accompanied by multiple catch certificates, and that only part of the fish covered in each catch certificate is used as raw material for the production of the processed products of the consignment to be exported to the EU?

Yes, this is a possibility, as long as the quantity management is done properly to avoid overshooting the total amount of fish covered by each catch certificate.

70. What documentation should be required if products caught by a fishing vessel from one flag State are processed in two different countries before being exported to the EU?

In that case, the authority in each country of processing must endorse an Annex IV. This means that the consignment will include two separate Annex IV accompanied by the catch certificate when reaching the EU.

NEW

71. Can a processing statement (Annex IV) be accompanied by a simplified catch certificate (form laid down in Annex IV to the Commission Regulation (EC) No 1010/2009)?

Yes, as long as the conditions established in Article 6 of the Commission Regulation are fulfilled.