

IUU – Guide for exporters

This guide is written for exporters in third countries who wish to export fishery products to the European Union (EU) under the new EU IUU Regulation (1005/2008) which came into force on 1 January 2010.

The EU is intent on combating illegal, unreported and unregulated (IUU) fishing.

Under the new Regulation the EU is tackling the problem of IUU fishing by maintaining black lists of vessels that fish illegally and by criminalising European nationals that are party to illegal fishing.

One of the biggest changes however is the introduction of a certification system for legally caught fish. Any fishery products caught on or after 1 January 2010 and intended for export to the EU must now be accompanied by a catch certificate. The catch certificate needs to be validated by the authorities of the flag state of the vessel that caught the fish.

This guide explains:

- the new rules governing exports to the EU;
- the importance of the new catch certificate and how to obtain, complete and transmit it;
- the new procedures that have to be followed;
- product-specific issues; and
- enforcement issues.

The catch certificate

With a number of exceptions all seafood caught on or after 1 January 2010 which is being exported to the EU will require a catch certificate. The responsibility for obtaining a catch certificate for that seafood falls on you, as the exporter.

Very simply you have to complete the relevant sections of the catch certificate and obtain validation from the competent authority. Nobody should attempt to export seafood to the EU unless a validated catch certificate is available for the consignment.

There are a few exceptions to this rule. A validated catch certificate is not required when:

- the goods to be exported fall outside the commodity groups described by Chapter 3 and outside Tariff Heading 1604 and 1605 of the Combined Nomenclature (CN). These are the internationally recognised “Customs Codes” that are used to designate the nature of goods and merchandise;
- or the goods to be exported are listed in Annex XIII of Commission Regulation No 1010/2009.

For further information see the European Commission’s Handbook on the practical application of the IUU regulation:

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

however as a rule the exporter should always check local rules and regulations with their approved Competent Authority.

The catch certificate explained

How to obtain and complete the catch certificate

The catch certificate is established by the master of the fishing vessel that caught the fish, or by a representative of the master. As the first step, the exporter should identify the flag state of the fishing vessel and flag state authorities to obtain a certificate template. This will be either the template as described in Annex II of the IUU Regulation, in which case the instructions below can be followed, or a certificate agreed between the European Commission and the flag state, in which case the flag state's instructions should be followed.

The master or representative fills sections 2 to 5 of the Annex II certificate. This covers fishing vessel details, product details, references of applicable conservation and management measures and a signature. In cases of transshipment at sea, the master or representative also fills in section 6. In the case of transshipment in a port the master or representative has to ensure that the port authorities fill in section 7.

Preparing to validate the catch certificate

As the exporter you have to fill in sections 8, 10 and Appendix I. In the case of products landed by the fishing vessel directly into an EU port, section 10 and Appendix I may be left empty. You then submit the catch certificate to the competent authority (the validating authority) of the flag state of the vessel that caught the fish. It is up to the validating authority to determine the manner in which the catch certificate is submitted for validation i.e. whether the authority requires

electronic submission. Validating authorities are listed on the European Commission's website at:

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

Validating the catch certificate

If the validating authority is satisfied with the information submitted in the catch certificate and with any other intelligence the authority may have, it will validate the catch certificate and return it to you. However, if information is incomplete, the validating authority may defer validation until the information is available. Note that, where relevant, Appendix I of the certificate (Transport Details) also needs to be complete.

Transmitting the validated certificate

Once you receive the validated catch certificate you transmit the certificate, including transport details, to the importer in the EU. Although the IUU Regulation allows transmission of the certificate by electronic means, you need to confirm with the validating authority that the European Commission has approved this form of communication for certificates of that particular flag state.

The validated certificate must reach the importer prior to importation into the EU. If an intermediate importer in a non-EU country is involved (as in indirect imports), the certificate must be transmitted to this importer. The European Commission has recommended that you retain a copy of the validated catch certificate for three years.

How far in advance of importation does the importer need the catch certificate?

The importer will need to submit the validated catch certificate to the Member State authorities at these minimum times before the arrival of the consignment:

- Goods arriving by air: 4 hours
- Goods arriving by road: 2 hours
- Goods arriving by rail: 4 hours
- Fresh fish landed by a third country flagged fishing vessel into a designated port: 4 hours
- Goods arriving by all other means (including by sea): 3 days

Consignments consisting of pooled catches

If a consignment consists of more than one catch, you will need to transmit to the importer all the validated catch certificates that relate to the consignment i.e. one for each catch.

If the catches stem from small vessels fishing in the same area, the catches may be pooled together and the consignment covered by one simplified catch certificate. This simplified catch certificate can be found in Annex IV of Commission Implementing Regulation 1010/2009. The types of vessels that can give rise to this simplified catch certificate are described in Article 6 of the same Regulation, and are vessels:

- with an overall length of less than 12m not using towed gear; or
- with an overall length of 8m using towed gear; or
- without a superstructure; or

- of less than measured 20 GT.

The simplified certificate may be used only for catches obtained using the described vessels and only if the catches are landed in the flag state of the vessels. It does not require any signatures by the masters of the vessels.

Exporting to the EU via another third country

Seafood products that are transported to another third country before reaching the EU must be accompanied by a validated catch certificate. In addition, the certificate must contain documentary evidence that the products did not undergo any operation other than unloading, reloading or any operation aimed to preserve them in a good condition. Examples of the documented evidence are listed under point 5.6 of the European Commission's Handbook.

European Commission handbook

For detailed instructions on the simplified catch certificate and for guidance on how to deal with the following types of situations see the European Commission handbook:

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

- consignments composed of different species;
- consignments that stem from split catches;
- consignments that are a mixture of locally caught fish and imported fish;
- and consignments consisting of both processed and non-processed products.

Procedural issues

Processed in a country other than the flag state

Seafood that is processed in a third country other than the flag state will need additional documentation if it is to be exported to the EU. This is the document listed under Annex IV of the IUU Regulation. The processor will need to fill out this document and obtain endorsement from the competent authority (in the country of processing) before passing the document on to the exporter. As the exporter you will need to transmit this document along with the validated catch certificate (or certificates) to the importer. Although the IUU Regulation allows transmission of the certificate by electronic means, you will need to confirm with the validating authority that the European Commission has approved this form of communication for certificates of that particular flag state.

Exporting seafood that originated in the European Union

Fishery products that are to be exported and re-imported into the EU will need a catch certificate validated by the flag state, and also in cases where the flag state is a Member State.

Exporting to an APEO

An Approved Economic Operator (APEO) is an importer in the European Community who is able to import without being required to submit every catch certificate to the competent authority in the Member State of the importer. That the importer has APEO status has no bearing on the exporter. Exporters will be required to follow procedures in the normal way and ensure that all validated certificates and supporting documentation are forwarded to the importer.

Enforcement issues to note

- To ensure the catch certificate is approved you should obtain fishery products only from trustworthy sources and, if appropriate, obtain information to assure that the supply of fishery products is legal within the context of the IUU regulations.
- If the flag state validating authority is not satisfied with the legality of the catch, it is obliged to refuse to validate the catch certificate, without which the consignment will be refused entry into the EU. If an EU Member State doubts the accuracy of a validated catch certificate, it may refuse importation while it checks the legitimacy of the catch certificate. The exporter may be asked to supply information to assist the authorities.