

TRADE REGULATIONS – HELP OR HINDRANCE ?

**COUNCIL REGULATION (EC) N° 1005/2008 OF
29 SEPTEMBER 2008 ESTABLISHING A
COMMUNITY SYSTEM TO PREVENT, DETER AND
ELIMINATE ILLEGAL, UNREPORTED AND
UNREGULATED (IUU) FISHING**

**+ DRAFT IMPLEMENTATION REGULATION OF
REG. 1005/2008 (NOT YET PUBLISHED)**

THE IMPORTERS VIEW

(Stijn Vandendriessche, Hottlet Frozen Foods)

HOTTLET FROZEN FOODS



- A major importer of frozen fishery products (wild catch and farmed; crustaceans, fish, molluscs,...), mainly finished products, processed and packed in final packaging by processing plants mainly from South-East Asia
- Located in Belgium
- Distribution throughout Europe
- ±200.000 KG seafood/week (± 10 containers 40ft/week)

IUU Regulation : help or hindrance ?

- We generally support EC initiative to fight against IUU fishing
- BUT enforceable in practice ?



Catch certificate

Reg. Chapter 3, Article 12

- importation into EC of fishery products obtained from IUU fishing = prohibited
→ all imported marine fishery products : validated CATCH CERTIFICATE !!
- exporter (= processing plant) has to complete catch certificate + transmit at the time of export to Competent Flag State Authority for validation + after validation send to importer
- validation : certify that catch was made in accordance with applicable laws, regulations, and international conservation and management measures

Catch certificate

- importer has to submit catch certificate to Competent Authority of importing Member State
- each Flag State and each Member State has to designate its Competent Authority ;
names : published in the OJ of the EU and on DG MARE's website (when ?)
- catch certificate working model has to be identical to model in Annex II
→ many third countries did not send any working model yet to the EC

model of catch certificate (Annex II)

EUROPEAN COMMUNITY CATCH CERTIFICATE					
Document number			Validating authority		
1. Name		Address		Tel. Fax	
2. Fishing vessel name		Flag – Home port and registration number		Call sign	IMO/Lloyd's number (if issued)
Fishing licence No – Valid to		Inmarsat No, Fax No, Telephone No, E-mail address (if issued)			
3. Description of product		Type of processing authorised on board		4. References of applicable conservation and management measures	
Species	Product code	Catch area(s) and dates	Estimated live weight (kg)	Estimated weight to be landed (kg)	Verified weight landed (kg) where appropriate

model of catch certificate (Annex II)

5. Name of master of fishing vessel – Signature – Seal:							
6. Declaration of transhipment at sea Name of master of fishing vessel				Signature and date	Transhipment date/ area/position	Estimated weight (kg)	
Master of receiving vessel		Signature	Vessel name		Call sign	IMO/Lloyds number (if issued)	
7. Transhipment authorisation within a port area							
Name	Authority	Signature	Address	Tel.	Port of landing	Date of landing	Seal (stamp)
8. Name and address of exporter		Signature		Date		Seal	
9. Flag State authority validation:							
Name/title		Signature		Date	Seal (stamp)		

model of catch certificate (Annex II)

10. Transport details (<i>see Appendix</i>)						
11. Importer declaration						
Name and address of importer		Signature	Date		Seal	Product CN code
Documents under Articles 14(1), (2) of Regulation (EC) No .../2008		References				
12. Import control — authority		Place	Importation authorised (*)	Importation suspended (*)	Verification requested – date	
Customs declaration (if issued)		Number		Date	Place	

(*) Tick as appropriate.



Catch certificate

When the catch certificate does not indicate all the required information :

- Importation will be refused
- Member states will destroy the fishery products
- No option to ship back to origin

Problem for the importer : containers mostly paid on approval of the documents (before arrival)

BUT how can the importer check all those data to be correct ??



Catch certificate problem 1 : signature of captain

5. Name of master of fishing vessel – Signature – Seal:

Fishery products from raw material caught by **national** fishing fleet and processed locally

Reg. : catch certificate : has to be signed by the captain or his legal representative at the moment the catch certificate is established, which is at the moment of export

Catch certificate

problem 1 : signature of captain

→ no captain in his right mind can sign this catch certificate at that moment !!

- moment of export can be several months after the catch was landed
- impossible for him to verify that the goods which will be exported are duly his goods !

→ collector vessels, fish market auctions, middlemen on land, splitting during processing ...

→ captain can only reasonably and logically sign a catch certificate, when he is unloading his goods from his fishing vessel

Catch certificate

problem 2 : 1 catching vessel per catch certificate

Reg. : only 1 catching vessel (= 1 fishing “consignment”) per catch certificate

exception : small scale fisheries (see later)

One container shipped to EU can contain processed fishery products originally caught by dozens, even hundreds of different small fishing boats, which bring in daily a few kilogram of raw material each

→ 1 container = 100 catch certificates !!



Catch certificate

problem 2 : 1 catching vessel per catch certificate

Example :

frozen seafood mix from Vietnam

Ingredients : wild caught cooked peeled pink shrimp, squid tentacles and rings, octopus slices, cuttlefish stripes



- Fishing vessels \neq small scale
- Each vessel brings in a few hundreds of kg of raw material per landing
- 20 000 kg finished product of seafood mix = more than 50 catch certificates which the exporter has to complete and search for all involved captains, and which the Authority has to validate !!



Catch certificate

problem 3 : criteria for “small scale fisheries”

Draft Implementation Regulation Article 6 : simplified catch certificate for small scale fisheries (Annex IV) :

- no signature of captain needed !
- one consignment, shipped to EU, consisting of catches from many small vessels, can be accompanied by one catch certificate, which covers all the catches from the small vessels !
- criteria small scale vessels:
 - overall length < 12m (without towed gear) or
 - overall length < 8m (with towed gear) or
 - without superstructure or
 - < 20 GT (Gross Tonnage)

Problem : above criteria = very strict

→ only very few sources will be able to take advantage of it



Catch certificate

problem 4 : no copies for exporter of national raw material

Reg. : processor (= exporter) of raw material, caught by **national** fleet, may only use the original catch certificates for import into EU (no copies allowed)

Problem : when processor splits up the catch into 2 or more different batches, for separated shipments to EU

→ for the first shipment, he can use the original catch certificate

→ what has to happen with the other shipments ?



Catch certificate

problem 5 : date of entry into force

Reg. Article 57 : It shall apply from 1 January 2010.

This legislation only applies to fishery products obtained from catches from 1 January 2010 onwards.

Thus : no catch certificate required for products obtained from catches before that date.

Problem :

Some consignments will enter EU in 2010 without catch certificate since raw material was caught in 2009 (e.g. canned fish could reach EU up to 15 months after raw material has been caught).

→ Legal uncertainty & discussions importers - Member State Authorities

→ Suggestion : ask to exporter to make a statement, certified by the Competent Authority, to confirm that the fishery products used in the shipment, have been caught before 1 January 2010



Some suggestions

in case of raw material was caught by the **national** fishing fleet:

- 1) The catch certification system could be organized in 2 stages:
 - a “real” catch certificate signed by captain + local Authority, at the moment of unloading the catch (only then the captain can sign reasonably)
 - a “processors” catch certificate issued by the processor + validated by the Authority, supplied with original or copies of the catch certificate of the raw material used
- similar system already exists when raw material was caught by a **foreign** fishing fleet.
- 2) The role of the fishing vessel captain needs to be moderated or even eliminated. Some fishermen can even hardly read or write.
- 3) Review criteria of “small scale fisheries”



Conclusion

In its present form, the IUU legislation will in practice make the local processing of fishery products in the exporting third countries very difficult, if not impossible, and can be seen as a serious trade barrier.

Morocco