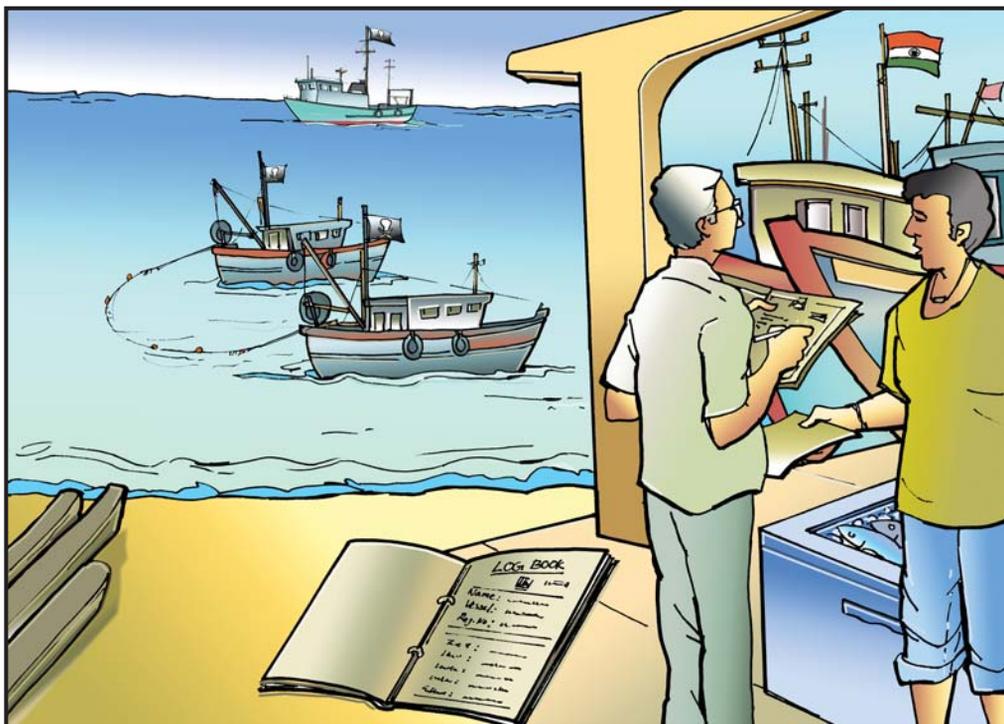


Report of the Regional Strategic Meeting on European Union's Regulation on Illegal, Unreported and Unregulated Fishing



**REPORT OF THE REGIONAL STRATEGIC MEETING ON
EUROPEAN UNION'S REGULATION ON ILLEGAL,
UNREPORTED AND UNREGULATED FISHING**

11 - 12 September 2009
Negombo, Sri Lanka

This document records the report of the Regional Strategic Meeting on European Union's Regulation on Illegal, Unreported and Unregulated Fishing (RSM: EU-IUU), organised by the Bay of Bengal Programme Inter-Governmental Organisation (BOBP-IGO) on 11-12 September 2009 in Negombo, Sri Lanka.

The BOBP-IGO presently covers four countries (Bangladesh, India, Maldives, Sri Lanka). Its objectives are to enhance cooperation among member-countries, other countries and organisations in the region and provide technical and management advisory services for sustainable coastal fisheries development in the Bay of Bengal region.

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Preface

Illegal, Unreported and Unregulated (IUU) fishing is one of the major practices that undermine sustainability of fisheries. IUU fishing occurs in most fisheries – whether small-scale or industrial, marine or inland, in zones of national jurisdiction or on the high seas. It accounts for about 30 percent of all catches in some fisheries. The cost of IUU fishing is enormous – billions of dollars and thousands of jobs. IUU fishing takes many forms – fishing without a license, misreporting of catches, use of illegal gear.

Despite international efforts, success in combating IUU fishing has been only partly effective. Factors like the existence of excess fleet capacity and strong market demand for particular fish species and products may encourage IUU fishing; on the other hand, weak national fishery administration, ineffective MCS (monitoring, control and surveillance) and poor regional fisheries management mechanisms are responsible for failure to control the menace.

To combat this global problem, the Council of the European Union on 29 September 2008 adopted Council Regulation (EC) No 1005/ 2008 on 'Establishing a community system to prevent, deter and eliminate illegal, unreported and unregulated fishing'. The Regulation upholds the objectives of the Common Fisheries Policy of the European Union, under which access to its markets will be partly conditioned by the extent to which the country or area of origin of the exported fish is free of IUU fishing.

In other words, the Regulation seeks to combat IUU fishing by imposing stringent market-related measures against fishing vessels and foreign states that support such fishing or fail to provide adequate documentation regarding their fisheries products.

The BOBP-IGO organised a Regional Strategic Meeting on the European Union's Regulation on Illegal, Unreported and Unregulated Fishing (RSM: EU-IUU) in Colombo, Sri Lanka, on 11- 12 September 2009. Member-countries of the BOBP-IGO were represented at the meeting, with the FAO and INFOFISH present as observers.

The meeting was in pursuance of a decision of the BOBP-IGO Governing Council at its Fifth Meeting held in Chennai, India on 15-16 June 2009. The Governing Council advised the Secretariat to assess, as a matter of high priority, the capacity of member-countries to meet the new regulation of the European Union (No 1005/2008 of 29 September 2008) for establishing a community system to prevent, deter and eliminate IUU fishing.

This document contains the proceedings of the meeting, status reports on the preparedness of member-countries, and an action plan for meeting the requirements of the EU Regulation on IUU Fishing. Chapters on Frequently Asked Questions and on the Rules of the Regulation have been added to enhance the utility of the document.

We hope this document will be useful for fisheries agencies and for the fisheries industry in BOBP-IGO member-countries, for reference as well as action.

Yugraj Singh Yadava
Director, BOBP-IGO



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Participants at the Meeting - sitting (L to R) Dr Y S Yadava, Mr Hussain Sinan, Mr Shamsul Haque, Mr M D Gunawansa, Ms Thilaka Kalyani, Mr Debasish Chaudhuri, Mr Indra Ranasinghe; standing (L to R) Mr Simon Diffey, Mr G D Rajeev, Dr S Subasinghe, Mr Roshan Fernando, Dr (Ms) Champa Amarasiri, Ms W Sepalika Wickramasinghe, Ms H P K Hewapathirana, Mr Adam Ziyad.

Report of the Regional Strategic Meeting on European Union's Regulation on Illegal, Unreported and Unregulated Fishing

Opening of the meeting

1.0 The Regional Strategic Meeting to understand the impact of European Union's Regulation on Illegal, Unreported and Unregulated (IUU) Fishing (RSM:EU-IUU) – Council Regulation (EC) No 1005/2008 of 29 September 2008 (hereinafter referred to as EU-IUU Regulation) on the member-countries (Bangladesh, India, Maldives and Sri Lanka) of the Bay of Bengal Programme Inter-Governmental Organisation (BOBP-IGO) was held in Negombo, Sri Lanka from 11-12 September 2009. The meeting was attended by representatives of the four member-countries, Food and Agriculture Organisation of the United Nations (FAO) and INFOFISH. The List of Participants is placed as ***Annexure 1***. The Agenda and Programme of the meeting is given in ***Annexures 2 & 3***.

2.0 Mr M D Gunawansa, Additional Secretary, Ministry of Fisheries and Aquatic Resources (MFAR), Government of Sri Lanka; Ms Thilaka Kalyani, Additional Secretary (Development), MFAR; Mr Godfrey Cooray, Chairman, National Aquatic Resources Research and Development Agency (NARA), Government of Sri Lanka; and Mr Indra Ranasinghe, Director General (Development), MFAR, attended the Opening Session along with other senior officials from the Ministry/ Department of Fisheries and Aquatic Resources (M/DFAR), Government of Sri Lanka. In accordance with the Sri Lankan tradition, the RSM:EU-IUU began with the *Lighting of Oil Lamps* by the dignitaries and member-country representatives.

3.0 Dr Yugraj Singh Yadava, Director, BOBP-IGO, welcomed the participants and dignitaries on behalf of the BOBP-IGO and expressed his gratitude to the Government of Sri Lanka for hosting the RSM:EU-IUU. He said that IUU fishing is a global challenge and a primary obstacle to achieving sustainable fisheries. The global effort to address this challenge is summarized in the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). Among different ways and means to address IUU fishing, the IPOA-IUU also advocates the use of market-based interventions to discourage trade in products originating from IUU fishing. The EU-IUU Regulation, approved on September 2008, aims at reducing/ eliminating IUU fisheries products and is highly useful initiative in this direction.

Explaining the objectives of the meeting, Dr Yadava said that during the Fifth Meeting of the Governing Council (GCM) of the BOBP-IGO held in Chennai, India from 15 - 16 June 2009, the BOBP-IGO Secretariat was directed to organize a Regional Strategic Meeting to address the requirements arising out of the EU-IUU Regulation. The GCM also directed the Secretariat to prepare a status report on the preparedness of the member-countries to address the requirements of EU-IUU Regulation.

Dr Yadava said that the BOBP-IGO member-countries have long proved their commitment to promote responsible fisheries. Although their efforts are inhibited due to resource constraints, yet the countries have made considerable progress in promoting responsible fishing practices. He hoped that addressing the requirements of the EU-IUU Regulation will further corroborate their efforts to prevent, deter and eliminate IUU fishing within their jurisdictions.

4.0 Mr Indra Ranasinghe delivered the welcome address. Extending a hearty welcome to the dignitaries and delegates, he said that the Government of Sri Lanka was happy to assist the BOBP-IGO in organizing this meeting. He expressed hope that the deliberations at the 2-day RSM:EU-IUU would make a positive contribution to the preparedness of the member-countries to address the requirements of the EU-IUU Regulation in particular and to address the issue of IUU fishing in general. Mr Ranasinghe's speech is placed as ***Annexure 4***.

5.0 Mr M D Gunawansa, chief guest at the Opening Session, said that the RSM: EU-IUU is an important meeting to take stock of the preparedness of the BOBP-IGO member-countries to address the EU-IUU requirements. Mr Gunawansa conveyed the good wishes of the Hon'ble Minister and the Deputy Minister for Fisheries and Aquatic Resources, Government of Sri Lanka. He said that the Hon'ble Ministers had requested him to convey their inability to participate in the meeting due to the on-going Parliamentary Session.



The Regional Strategic Meeting in Progress

Mr Gunawansa said that convening the RSM: EU-IUU was most appropriate and timely and he was honored to participate in the Opening Session. “The EU- IUU Regulation applies to all vessels engaged in commercial exploitation of fishery resources and seeks to prevent, deter and eliminate all trade of fish and fishery products into the European Community deriving from IUU fishing in all waters. The Regulation also introduces a system of catch certification for all fish and fish products entering into the European markets from 01 January 2010”, said Mr Gunawansa. He added that the decision of the Governing Council of the BOBP-IGO to have a strategic meeting on the EU-IUU Regulation would help member-countries in assessing the IUU fishing situation within their own jurisdictions and to formulate suitable measures to meet the requirements of the ‘catch certification’ for the fish caught on or after 01 January 2010. He wished the delegates a pleasant stay in Sri Lanka and hoped that the delegates would enjoy the beautiful beaches of Negombo during their leisure hours. Mr Gunawansa’s speech is placed as *Annexure 5*.

6.0 Mr Godfrey Cooray, read out the message of Mr Felix Perera, Hon’ble Minister for Fisheries and Aquatic Resources, Government of Sri Lanka. Reading the Hon’ble Minister’s address, Mr Cooray said that the member-countries of EU, being party to IPOA-IUU and the United Nation’s Fish Stocks Agreement, have the responsibility of promoting sustainable fisheries. Since IUU fishing is one of the major threats to sustainable fisheries, and as the world’s largest market for fish and fishery products, the European Community has a special responsibility to ensure that the fishery products imported into their territory are not originated from IUU fishing.

“Since the EU is a major market for Sri Lankan seafood and the same is true for the other countries in the region, there is a need to adapt to the situation. However, apart from trade interests, as a responsible fishing nation Sri Lanka also has the responsibility to curb IUU fishing trade”, said Mr Perera. The Hon’ble Minister said that his Ministry was working toward this purpose under an enabling legal framework for sustainable fisheries and hoped that the other BOBP-IGO member-countries also had a sound legal basis for management and conservation of their fisheries resources. He hoped that the RSM: EU-IUU would be useful in understanding the shortcomings in the member-countries’ preparedness for addressing the requirements of the EU-IUU Regulation. He wished the meeting success. The Hon’ble Minister’s speech is placed as *Annexure 6*.

7.0 Mr Manoj Priyankara Govinnage, Planning Assistant, MFAR, proposed the vote of thanks. He thanked the Hon’ble Minister and Deputy Minister for Fisheries and Aquatic Resources for support to the organization of the meeting in Sri Lanka, and to Mr G Piyasena, Secretary, MFAR, for his guidance. He thanked the officials of MFAR and DFAR for their cooperation and to the BOBP-IGO Secretariat for effective coordination in organizing the meeting. He wished the delegates a pleasant stay in Sri Lanka.

Technical Session

8.0 The Technical Session began with the adoption of the Agenda as shown in *Annexure 2*. Mr Indra Ransinghe was elected to chair the session. The BOBP-IGO Secretariat made three presentations - (i) Understanding EU-IUU Regulation; (ii) Status of member-countries of BOBP-IGO with regard to the EU-IUU Regulation; and (iii) A road map to address the issues arising out of EU-IUU Regulation.

9.0 The first presentation covered the “Extent and Scope of the EU-IUU Regulation”. Making the presentation, Dr Yadava said that the term ‘Illegal, Unreported and Unregulated Fishing’ was first coined during the XVI meeting of the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) in 1997. He said that the EU-IUU Regulation establishes a system of access conditionality in which access to EU markets will be partly conditioned by the extent to which the country, area or region of origin of the exported fish product is completely free or increasingly free of IUU fishing. Further, the Regulation seeks to address EC’s objective of combating IUU fishing by imposing stringent market-related measures against fishing vessels and foreign states that support such fishing or fail to provide adequate documentation regarding their fisheries products.

Dr Yadava explained the measures specified in the Regulation, which include (i) port state measures; (ii) catch certification; (iii) IUU vessel list; and (iv) list of non-cooperating third countries. He said that as exporting nations, the primary concern of the BOBP-IGO member-countries is the ‘catch certification’. In detailing the catch certification procedure, Dr Yadava said that certification of catch from large and dispersed small-scale and artisanal fisheries may be a major challenge for member-countries. He informed the delegates

that the EU was aware of the issue, as various studies commissioned by the EU highlighted the difficulties. While acknowledging the importance of the EU-IUU Regulation, Dr Yadava raised concerns about livelihood issues of small-scale fishers who are following the rules but may lack necessary capacity to document their effort in line with the EU-IUU Regulation. The full text of the presentation entitled “Understanding Council Regulation (EC) No 1005/2008 of 29 September 2008 - Establishing a Community System to Prevent, Deter and Eliminate IUU Fishing” is placed as *Annexure 7*.

10.0 The second presentation by Dr Yadava covered the “Status of Fisheries in the BOBP-IGO Member-Countries with respect to EU-IUU Regulation”. He said that the objective of the status report was to analyze the preparedness of the member-countries to deal with the issues arising out of the EU-IUU Regulation.

Dr Yadava said that EU is the largest consumer of seafood products from the BOBP-IGO member-countries and in recent years, trade with EU was on a steady rise, showing increasing absorption of fisheries products from the region. Hence, it is important that the countries take necessary steps to maintain their market share in the EU and exploit the opportunities rising out of the Regulation.

Dr Yadava further elaborated on the legal and implementation framework of fisheries management in each member-country and noted their strengths and weaknesses as presented below. *Annexure 8* provides the full text of the second presentation.

Strengths and weaknesses of the BOBP-IGO member-countries in terms of meeting the requirements of EU-IUU Regulation

Country	Strengths	Areas of Concern
Bangladesh	Presence of basic monitoring, control and surveillance (MCS) requirements such as registration and licensing of fishing vessels. Centralized governance with well established Ministry of Fisheries & Livestock (MoFL) and the Department of Fisheries (DoF). Prior experience of the MoFL/ DoF in certification (quality control). Provisions existing under the Marine Fisheries Ordinance to issue necessary regulations by the MoFL/ DoF.	Multi-agency administration structure. Lack of coordination among agencies. Lack of staff capacity in the Mercantile Marine Department (MMD) and DoF. Most fishing boats are not registered or licensed. Inadequate resources with Navy/ Coast Guard for effective implementation of MCS. No established system of traceability of fisheries products. IUU fishing in the Exclusive Economic Zone (EEZ) by domestic and neighboring vessels and vessels flying the Flag of Convenience (FoC).
India	Elaborate legal structure with provisions to curb IUU fishing. Well-established Department of Fisheries (DoF) in the coastal States/ Union Territories. Presence of basic MCS provisions like registration, licensing and surveillance. Shared responsibility between the Union and the State Governments. Technological and resource capacity. Well-established force of Coast Guard. IOTC membership.	Federal multi-agency administration structure. Lack of coordination between Union and coastal States and among other concerned agencies. Highly dispersed fisheries along the >8 000 km long coastline. Lack of capacity in MMD and DoF. Most fishing boats are not registered. No established system of traceability of fisheries products. IUU fishing in the EEZ by domestic, neighboring and FoC vessels.
Maldives	Manageable fleet size. Single-species fishery. Established MCS and VMS system. Proposed legislation to strengthen registration, licensing and data reporting mechanism.	Fishing fleet distributed among 200 - odd inhabited islands. Lack of control over domestic fisheries in EEZ. IUU fishing by neighboring and FoC vessels. Major share of the fish product is exported to Thailand from where it is possibly re-exported to EU. Not a party to any Regional Fisheries Management Organization (RFMO).

Country	Strengths	Areas of Concern
Sri Lanka	Most of the applicable laws were revised/ amended to address arising issues. Established traceability system under quality control mechanism. IOTC membership for tuna certification. Centralized fisheries and provisions for DFAR to certify catch.	Weak monitoring and control for domestic vessels, especially those operating in the EEZ/ high seas. Dispersed (over 710) landing centres. Lack of capacity in the DFAR.

Discussions

11.0 Initiating discussions on the two presentations made by Dr Yadava, Mr Hussain Sinan, delegate from Maldives, said that Article 14 of the EU-IUU Regulation provides for consideration of the constraints faced by the developing countries in implementing the Regulation. However, such considerations would be based on a two-way communication between the EU and the individual country. “As far as Maldives is concerned, the Government has informed the EU about its status and the likely problems in issuing catch certification from small-scale fisheries. A communication received from the EU has clarified that for small-scale fisheries, the exporter rather than the individual fishers could certify the product. However, the exporter would be required to append a list of all fishing vessels from whom the product has been sourced”, said Mr Sinan.

12.0 Dr S Subasinghe, Director, INFOFISH, sharing his past experience of implementing HACCP principles by the developing countries, said that full implementation of HACCP took quite some time from its actual deadline of 1990. In the same vein, it may not be possible to have full implementation of the EU-IUU Regulation by 01 January 2010. However, the countries should present their roadmap to the EU and demonstrate their willingness to follow the Regulation, said Dr Subasinghe.

13.0 The Sri Lankan delegation said that their country was fully supportive of the EU-IUU Regulation and was committed to eliminate IUU fishing from its waters. However, full accomplishment could only be possible in a phased manner.

14.0 Mr D Chaudhuri, delegate from India, enquired whether the EU has been informed of the constraints faced by the BOBP-IGO member-countries and what type of cooperation would they receive from the EU towards implementation of the Regulation.

15.0 Responding to the points raised during the discussions, Dr Yadava said that since the Regulation was already notified by the EU, the chances of its being postponed or relaxation of the provisions was a remote possibility. Any amendment to the regulation would mean a fresh approval of the EU Parliament. Hence, member-countries should not wait for any relaxation in the Regulation. On the contrary, the countries should prepare for meeting the provisions of the Regulation. In doing so, the member-countries may also seek cooperation from EU, since the Regulation provides for legal and capacity-building support to developing countries. However, such negotiations may be best carried out on bi-lateral basis and the BOBP-IGO Secretariat would help to corroborate its effort as a Regional Fisheries Body.

In-Country Developments

16.0 Mr Shamsul Haque, delegate from Bangladesh said that discussions have taken place on the status of IUU fishing in Bangladesh and the implications of the EU-IUU Regulation with stakeholders concerned. Further, Bangladesh is also developing a National Action Plan to curb IUU fishing (NPOA-IUU).

17.0 Mr G D Rajeev (India) said that the Marine Product Export Development Authority (MPEDA) conducted a series of meetings with the concerned stakeholders to take a stock of the situation. However, the arrangements to address the EU-IUU Regulation were yet to be finalized.

18.0 Mr Sinan (Maldives) said that in his country, the Ministry of Fisheries and Agriculture (MoFA) has been designated to validate the catch certificate of exporters and the EU has been notified about it. Towards the validation of catch certification, the MoFA has developed a detailed two-way data reporting scheme

i.e. from fishing vessels and also from the Atoll and Island Administration. However, since Maldives is making amendments to its Fisheries Act, the EU is yet to be notified on the legal architecture for fisheries management in the country. A presentation made by Maldives is placed as **Annexure 9**.

19.0 Ms Sepalika Wickramasinghe (Sri Lanka) said that a traceability mechanism had been established owing to quality control requirements in Sri Lanka. As per the procedure, the Fishery Product Quality Control Unit of the DFAR is responsible for monitoring and inspection of fishing vessels that supply fish for exports. A master list of such vessels is maintained, which is also updated annually. All fish processing establishments purchase fish from the listed vessels only and also maintain details of the vessels to ensure traceability. **Annexure 10** contains the presentation made by Sri Lanka.

Presentation of Roadmap

20.0 In the last presentation, Dr Yadava elaborated the roadmaps for each member-country to meet the requirements of the EC-IUU Regulation. He said that the member-countries had the options of either complying with the EU-IUU Regulation or seeking alternative markets for their fish and fishery products. However, the latter option was costlier (and also uncertain) than complying with the EU measures. Dr Yadava said that since the structure of the fisheries sector and the overall socio-economics of the member-countries varied considerably, the modalities of addressing the requirements of the Regulation would also vary considerably. However, all the member-countries should start with the review of their legal architecture, the MCS system and its implementation procedure. Simultaneously, consultations with the concerned stakeholders in the fisheries sector also need to be initiated to make them equal partners in the implementation process.

Dr Yadava proposed a phase-wise implementation by the countries, and suggested (i) immediate or impact management measures to meet the requirements of the Regulation before 01 January 2010; (ii) corrective measures in the medium-term (*e.g.* one Plan Period, usually 5 years); and (iii) long-term programmes for capacity enhancement and full compliance of the Regulation (2-3 Plan period; 10-15 years). The detailed roadmaps proposed for the member-countries are given in **Annexure 11**.

Preparation of Action Plan

21.0 On the second day, the member-countries prepared their Action Plan to meet the requirements of the Regulation. The Action Plans are placed in **Annexures 12-15**. The Action Plan for Bangladesh was prepared later based on the feedback received from the Ministry of Fisheries and Livestock, Government of Bangladesh.



Concluding Session

22.0 Mr G Piyasena presided over the Concluding Session in which the member-countries presented their Action Plan.

23.0 Based on the Action Plans presented by the member-countries, the following decisions were accepted by the delegates for consideration of their respective governments.

Decisions

Sl. No	Decision	Implementing Agencies	Time-frame
1.0	The agreed Road Map for each member-country would be presented by the delegations to their respective Governments.	Respective country delegations.	Immediate.
2.0	The final report of the RSM:EC-IUU would be prepared and circulated to the member-countries, FAO and the European Commission.	BOBP-IGO Secretariat.	By 30 September 2009.
3.0	A National Workshop on Monitoring, Control and Surveillance (MCS) for Sri Lanka (for formulation of the National Plan of Action on MCS) would be organized.	Ministry of Fisheries and Aquatic Resources & BOBP-IGO Secretariat.	By November 2009 (dates to be confirmed in consultation with the Government of Sri Lanka).
4.0	Technical backstopping to member-countries for implementation of the EU-IUU Regulation, if required.	BOBP-IGO Secretariat.	Continuous process.
5.0	Organization of the Second Regional Consultation on MCS for formulation of Regional Plan of Action on MCS.	BOBP-IGO Secretariat. FAO would be requested to assist in the organization of the Regional Consultation.	January/ February 2010. The venue would be in India subject to the concurrence of the Government of India.
6.0	Awareness and capacity building programmes: Translation of EU-IUU catch certification requirement in vernacular languages in cooperation with implementing agencies of member-countries.	FAO and the BOBP-IGO. FAO would be requested to provide technical support within the context of the IPOA-IUU and the CCRF.	October- December 2009 and further, if required.
7.0	Preparation of thematic and schematic posters in vernacular languages on information to be furnished by fishing vessels for catch certification requirement/ logbook with the association of implementing agencies of member-countries.	FAO and the BOBP-IGO. FAO would be requested to provide technical support within the context of the IPOA-IUU and the CCRF.	October- December 2009 and further, if required.
8.0	Networking amongst the implementing agencies in the member-countries and facilitating sharing of information of common interest (e.g. certification of small-scale (unorganized) fisheries, standardization of logbooks, etc).	FAO and the BOBP-IGO. FAO would be requested to provide technical support, especially in terms of developing and strengthening data base and implementing flag state and port state measures.	Immediate and continuous process.

24.0 In his concluding remarks, Mr G Piyasena thanked BOBP-IGO for organizing the meeting. He said that the RSM: EU-IUU was successful in addressing the core issues and providing guidelines for the countries to address the issues relating to EU-IUU Regulation. He wished the delegates a safe return journey.

25.0 The Report of the RSM:EU-IUU was adopted on 12 September 2009.

Note: As on 22 December 2009, India, Maldives and Sri Lanka have formalized their arrangement with the EC. These developments are given in **Annexure 16**.



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Agenda

Friday, 11 September 2009

Morning, 0930 hrs

1. Opening of the Meeting.
2. Adoption of the Agenda and arrangements for the Meeting.
3. Extent and Scope of the EU-IUU Regulation.
4. Status of Fisheries in the BOBP-IGO Member-Countries with respect to EU-IUU Regulation.

Afternoon, 1400 hrs

5. Presentation by Member-Countries: In-country developments with respect to EU-IUU Regulation.
6. Presentation of Road Map.
7. Response of the BOBP-IGO Member-Countries and Discussion.

Saturday, 12 September 2009

Morning, 0900 hrs

8. Formulation and Presentation of Country-wise Strategies (Action Plan) for meeting the requirements of EU-IUU Regulation.

Afternoon, 1400 hrs

9. Summation and Adoption of Meeting Report
10. Closing of the Meeting.



Programme

<i>Date & Time (in hrs)</i>	<i>Activity</i>	<i>Person/ Venue</i>
<i>10.9.2009 (Thursday)</i>	<i>Arrival of the Delegates</i>	
<i>11.9.2009 (Friday)</i>	Meeting	<i>Conference Hall, Hotel Goldi Sands, Negombo</i>
0900 - 0930	Registration	Secretariat, BOBP-IGO
0930 - 0935	Lighting of the Traditional Lamps	
0935 - 0940	Welcome and Introductory Remarks	Director, BOBP-IGO
0940 - 0945	Welcome and Introductory Remarks	Director General (Development), Ministry of Fisheries & Aquatic Resources (MFAR), Government of Sri Lanka
0945 - 0955	Inaugural Address	Additional Secretary, MFAR, Government of Sri Lanka
0955 - 1000	Vote of Thanks	Planning Assistant, MFAR, Government of Sri Lanka
1000 - 1030	Tea/ Group Photo	
1030 - 1035	Adoption of the Agenda	--
1035 - 1130	Extent and Scope of the EU-IUU Regulation	Secretariat, BOBP-IGO
1130 - 1230	Status of Fisheries in the BOBP-IGO Member-countries with respect to EU-IUU Regulation	Secretariat , BOBP-IGO
1230 - 1400	Lunch	
1400 - 1500	Presentation on In-Country Developments with respect to the EU-IUU Regulation	Bangladesh, India, Maldives, Sri Lanka
1500 - 1530	Tea/ Coffee	
1530 - 1630	Presentation of Road Map to address the issues arising out of the EU-IUU Regulation	Secretariat, BOBP-IGO
1630 - 1700	Discussions on Road Map	Member-countries & Observers
1900 - 2100	Meeting Dinner	
		Cey-nor Thai Restaurant, Colombo
<i>12.9.2009 (Saturday)</i>	Meeting	<i>Conference Hall, Hotel Goldi Sands, Negombo</i>
0900 - 1030	Formulation of Country-wise Strategies (Action Plan) for meeting the requirements of EU-IUU Regulation	Member-countries
1030 - 1100	Tea/ Coffee	

<i>Date & Time (in hrs)</i>	<i>Activity</i>	<i>Person/ Venue</i>
1100 - 1230	Presentation of Country-wise Strategies (Action Plan) for meeting the requirements of EU-IUU Regulation	Bangladesh, India, Maldives, Sri Lanka
1230 - 1430	Lunch	
1430 - 1520	Summation and Adoption of Report	Member-Countries & Secretariat, BOBP-IGO
1520 - 1525	Closing Remarks	Chairman
1525 - 1530	Closing Remarks & Vote of Thanks	Secretariat, BOBP-IGO
1530 - 1600	Tea/ Coffee Departure of the Participants	

Welcome Speech

Mr Indra Ranasinghe
Director General (Development)
Ministry of Fisheries and Aquatic Resources
Government of Sri Lanka

Mr M D Gunawansa, Additional Secretary, Ministry of Fisheries and Aquatic Resources; Dr Y S Yadava, Director BOBP-IGO; Dr S Subasinghe, Director, INFOFISH; Mr Simon Diffy, Representative from FAO; Heads of Institutions attached to the MFAR, Distinguished foreign and local participants, Distinguished invitees; Ladies and gentlemen.

On behalf of the Ministry of Fisheries and Aquatic Resources and the BOBP-IGO, it gives me a great pleasure to welcome all of you to this two-day Regional Strategic Meeting convened for establishing a Community System to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) fishing. We in Sri Lanka are delighted to assist the BOBP-IGO in organizing this Regional Strategic Meeting in Negombo.

At the outset, I warmly welcome Dr Yugraj Yadava, Director, BOBP-IGO on behalf of the Ministry of Fisheries and Aquatic Resources. I also warmly welcome the Additional Secretary and the Heads of the Institutions attached to the Ministry.

I extend a special welcome to all the foreign delegates from India, Bangladesh and Maldives who have gathered here today to discuss matters pertaining to the IUU fishing and the European Union's Regulation on the same.

I am sure that the discussions and debates at this-two day Regional Strategic Meeting will make positive contributions towards establishing a Community System to Prevent, Deter and Eliminate IUU fishing in the Bay of Bengal region.

Let me once again welcome you and wish you a very pleasant stay in Sri Lanka.

Thank you!



Inaugural Speech

Mr M D Gunawansa
Additional Secretary
Ministry of Fisheries and Aquatic Resources
Government of Sri Lanka

Distinguished participants from Bangladesh, India, Maldives and Sri Lanka, distinguished Representatives from FAO and INFOFISH, Dr Yadava, Director, BOBP-IGO, Ladies and Gentlemen:

First of all, let me convey the greetings and good wishes of the Hon'ble Minister for Fisheries & Aquatic Resources and Deputy Minister of Fisheries for the workshop and for the foreign participants. Both Ministers requested me to convey their inability to participate at the Opening Session due to Parliamentary Session, which is being held today.

It is a great pleasure and honor for me to be invited to participate and to chair the Opening Session of this Regional Strategic Meeting which focuses on "EU Regulation on IUU Fishing" The theme chosen for this meeting – to discuss and assess the capacity of the member-countries to meet the new regulation of the European Union for establishing a community system to prevent, deter and eliminate IUU fishing – is most appropriate and timely.

The European Union, being the largest consumer of fish and fishery products, adopted a Regulation on IUU fishing in 2008, which will come into force on 01 January 2010.

The EU- IUU Regulation applies to all vessels engaged in commercial exploitation of fishery resources and, seeks to prevent, deter and eliminate all trade of fish and fishery products into the European Community deriving from IUU fishing in all waters, and the involvement of community nationals in IUU fishing activities conducted under any flag. Introduction of catch certificate by the EU is the result of this new Regulation.

Sri Lanka, like other member-countries of the BOBP-IGO has ratified the United Nations Agreement for the Implementation of the provisions of the United Nations Convention on the Law of the Sea (UNCLOS- III) and UN Fish Stocks Agreement and FAO Compliance Agreement. As a result, Sri Lanka is committed to ensure sustainable management of marine resources and to cooperate with others to this end.

In Sri Lanka, necessary legal basis exists for monitoring the local fleet towards conservation and management of resources as required by the new EU-IUU Regulation and quality control of exporting fishery products. In this regard, I would like to highlight the following documents that exist in Sri Lanka to regulate the activities.

- Fisheries and Aquatic Resources Act No. 2 of 1996.
- Registration of Fishing Boats Regulations, 1980 and its amendments in 1996 & 2006 – *to ensure the legality of the fishing vessels.*
- Fishing Operations Regulations, 1996 & its amendment in 2005 – *to ensure the legality of fishing gear used.*
- Landing of Fish Regulation, 1997 and its amendment in 2008 – *to ensure the legality of fish landings.*
- Monofilament Nets Prohibition Regulation, 2006 – *to prohibit use of harmful fishing gear.*
- Fish Products (Export) Regulation – *to maintain registry of exporting fishing vessels and continuous monitoring of such vessels including monitoring of all production standards of exported fishery products.*

The status of the existing systems for control over fishing vessels that catch fish for exports will be elaborated by the Sri Lankan delegation during their presentations in the meeting.

The decision of the Governing Council of the BOBP-IGO to have a regional consultation with the member-countries on the EU Regulation on IUU fishing will help the member-countries to assess the situation in the region with regard to the IUU fishing and to suggest suitable measures in meeting the requirements of catch certificates.

Sri Lanka wishes that the deliberations of the Regional Strategic Meeting will help member-countries to come out with a common strategy to meet the requirements of the EU-IUU Regulation.

Finally, let me wish our foreign participants a pleasant stay in Sri Lanka and request them to enjoy the beautiful beaches of Negombo during their leisure hours.

Thank you!

Speech of Mr Felix Perera
Honorable Minister for Fisheries and Aquatic Resources
Government of Sri Lanka

As we all are aware the Food and Agriculture Organization of the United Nations adopted an International Plan of Action in 2001 to prevent, deter and eliminate Illegal, Unreported and Unregulated (IUU) fishing. The regional fisheries management organizations have also established an array of measures designed to counteract IUU fishing.

The European Community as a contracting party to the United Nations Convention on Law of the Sea (UNCLOS) of 10 December 1982 has ratified the 'United Nations Fish Stocks Agreement' for implementation of the provisions of the UNCLOS relating to the straddling and highly migratory fish stocks. The European Community has further accepted the 'FAO Compliance Agreement' of 24 November 1993 that promotes the compliance with international conservation and management measures by fishing vessels on the high seas.

As we know, the provisions of these agreements declare that all states have a duty to adopt appropriate measures to ensure sustainable management of marine resources.

To comply with the provisions of these agreements and have the understanding that IUU fishing is one of the most serious threats to sustainable exploitation of living aquatic resources, the European Commission has set the new Regulation EC Number 1005/2008 to Prevent Deter, and Eliminate Illegal, Unreported and Unregulated Fishing.

We have to accept the truth that as the world's largest market for fish and fishery products, the European Community has a special responsibility to ensure that the fishery products imported into their territory do not originate from IUU fishing.

Being exporting nations of fishery products to the European Community, we have to adjust to the situation to maintain our market, although some of the requirements coming under the IUU Regulation are not practical to our fisheries. Apart from that, we also have a responsibility to comply with international conservation and management measures on fisheries.

In Sri Lanka, the Department of Fisheries and Aquatic Resources was established under the Ministry of Fisheries and Aquatic Resources with the main focus of management and conservation of fishery resources. From the beginning we have set necessary legislation based on the sections of the Fisheries Ordinance and later under the Fisheries and Aquatic Resources Act. No 2 of 1996. I believe the other participating countries in this meeting also have sound legal basis for management and conservation of fisheries resources.

I hope the discussions of this Regional Strategic Meeting sponsored by the Bay of Bengal Programme Inter-Governmental Organisation would be immensely beneficial to understand the deficiencies with in our systems and to share the knowledge to improve our systems as also to strategically tackle the issues to address the requirements of the EU-IUU Regulation to be in force from 01 January 2010.

I wish this Regional Strategic Meeting a success!



Understanding Council Regulation (EC) No 1005/2008 of 29 September 2008 – Establishing a Community System to Prevent, Deter and Eliminate IUU Fishing¹

1.0 The Basis of Regulation

The market-related measures to combat Illegal, Unreported and Unregulated (IUU) fishing were first discussed in the FAO International Plan of Action on IUU fishing (IPOA-IUU). The IPOA-IUU holds that the states should take all steps necessary, consistent with international law, to prevent trade of fish caught by illegal means in any water. However, such measures should be fair, transparent and implemented in non-discriminatory manner in accordance with international laws. Such measures can be implemented by the means of catch documentation and certification. The European Union (EU), being the largest market for world fish (and hence susceptible to IUU fishing trade) is within its right to implement market-related measures in so far as they are implemented in a fair and non-discriminatory manner and not as an artificial barrier to trade. In spirit, the EU regulation meets these criteria; it conforms to the WTO rules of fair trade. Apart from the IPOA-IUU, the Regulation also adheres to the concerned international treaties and arrangements of the Regional Fisheries Management Organizations (RFMOs) and the EU convention on the health standard of fishery products. *Annexes 1 & 2* provide details.

2.0 An overview of the EU-IUU Regulation

On 29 September 2008, the Council of the European Union adopted EC No 1005/2008 on “Establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing” (referred to hereinafter as the EU-IUU Regulation). This EU-IUU Regulation, scheduled to enter into force on 01 January 2010, is intended to regulate the highly complex multi-channel fisheries supply system of the European Community (EC) in an effort to improve global fisheries sustainability. The EU-IUU Regulation amended Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealed Regulations (EC) No 1093/94 and (EC) No 1447/1999 (*Annexe 3* provides brief on the amended/ repealed regulations).

The EU-IUU Regulation contains a Preamble, 12 Chapters and 57 Articles, including four annexes. The Preamble establishes the need for the Regulation on the ground of upholding the objectives of the Common Fisheries Policy (CFP), as set out in the Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the CFP, the IPOA-IUU and other international instruments. The Preamble also sets out the need for port state measures (Para 9-13), certification scheme (Para 14-19), community alert system (Para 20-21), list of IUU vessels (Para 22- 29) and list of non-co-operating countries (Para 30 – 32). The following paragraphs provide brief details on the Chapters of the EU-IUU Regulation.

Chapter 1 of the EU-IUU Regulation details the General Provisions of the Regulation, including subject matter and scope (Art. 1); definitions of IUU fishing, fishing vessels, etc as used in the Regulation (Art. 2) and fishing vessels engaged in IUU fishing (Art. 3).

Chapter 2 of the Regulation details the procedure of inspections of third country fishing vessels in member-state ports. Section I of Chapter 2 details the conditions for access to EU ports by third country fishing vessels. Section II of Chapter 2 details the port inspection procedures.

¹ This information note is based on the following Reports:

- (i) MEGAPESCA Lda (2009), “Analysis of Expected Consequences for Developing Countries of the IUU Fishing Proposed Regulation and Identification of Measures Needed to Implement the Regulation” – Phase 2, Final Report.
- (ii) Tsamenyi Martin et al. (2008), “Development Impact of the Council Regulation Establishing a European Community System to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing on Commonwealth ACP Member-Countries”, Commonwealth Secretariat, Final Report.
- (iii) Diagne Abdoulaye (2009), “A unilateral perspective on an international concern - A look at the EU’s IUU regulation”, Trade negotiations Insight, Issue 01, Volume 8. February 2009, International Centre for Trade and Sustainable Development. www.ictsd.net/news/tni.

Chapter 3 of the Regulation details the catch certification scheme for import and export of fishery products. It describes the catch certificate, its ingredients and verification of information and is the most important part of the Regulation as far as BOBP-IGO member-countries are concerned.

Chapter 4 details the community alert system including its objective and the procedure for institutionalization.

Chapter 5 details the identification of fishing vessels engaged in IUU fishing and setting up of an IUU vessel list.

Chapter 6 deals with the issue of non-cooperating third states including activities which may be termed as ‘non-cooperation’ and listing of the countries which are ‘non-cooperating’.

Chapter 7 details the measures in respect of fishing vessels and states involved in IUU fishing- the vessels or the states which are enlisted in IUU Vessel List or List of Non-Cooperating Countries.

Chapter 8 details measures against nationals of member-states of EU who are engaged in IUU fishing.

Chapter 9 details immediate measures and sanctions to be imposed in case of serious infringements committed within the territory of member-states to which the Treaty applies, or within maritime waters under the sovereignty or jurisdiction of the member-states, or by the nationals of member-states in a third country or high seas.

Chapter 10 details the implementation of provisions adopted within certain RFMOs pertaining to fishing vessel sightings.

Chapter 11 sets out the scope of mutual assistance (with third countries) within the Regulation.

Chapter 12 sets out the final provisions of the Regulation including implementation, financial support, reporting and entry into force.

The EU-IUU Regulation establishes a system of access conditionality in which access to its markets will be partly conditioned by the extent to which the country, area or region of origin of the exported fish product is completely free or increasingly free of IUU fishing. Specifically, the Regulation seeks to address the EC’s objective of combating IUU fishing by imposing stringent market-related measures against fishing vessels and foreign states that support such fishing or fail to provide adequate documentation regarding their fisheries products.

The EU-IUU Regulation applies to IUU fishing and associated activities carried out within the jurisdiction of EC member-states, in addition to activities carried out by Community and non-Community vessels on the high seas or in the waters under the jurisdiction of a third state (Article 1 of the EU-IUU Regulation). It applies to fishing vessels broadly defined to include “*any vessel of any size used for or intended for use for the purposes of commercial exploitation of fishery resources, including support ships, fish processing vessels, and vessels engaged in transshipment and carrier vessels equipped for the transportation of fishery products, except container vessels*”.

The control, sanctioning and conditionality elements at the heart of the EU-IUU Regulation include: port state controls over third country fishing vessels, catch certification requirements, establishment of a Community IUU vessel list, and establishment of a list of non-co-operating third countries.

3.0 Definition & scope of IUU fishing as per the EU-IUU Regulation

The scope of this Regulation extends to fishing activities carried out on (i) the high seas and in (ii) maritime waters under the jurisdiction or sovereignty of coastal countries, including maritime waters under the jurisdiction or sovereignty of the member-states. A fishing vessel shall be presumed to be engaged in IUU fishing if it is shown that, contrary to the conservation and management measures applicable in the fishing area concerned, it has:

- fished without a valid licence, authorization or permit issued by the flag State or the relevant coastal State; or
- not fulfilled its obligations to record and report catch or catch-related data, including data to be transmitted by satellite vessel monitoring system, or prior notices under Article 6; or

- fished in a closed area, during a closed season, without or after attainment of a quota or beyond a closed depth; or
- engaged in directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited; or
- used prohibited or non-compliant fishing gear; or
- falsified or concealed its markings, identity or registration; or
- concealed, tampered with or disposed of evidence relating to an investigation; or
- obstructed the work of officials in the exercise of their duties in inspecting for compliance with the applicable conservation and management measures; or the work of observers in the exercise of their duties of observing compliance with the applicable Community rules; or
- taken on board, transshipped or landed undersized fish in contravention of the legislation in force; or
- transshipped or participated in joint fishing operations with, supported or re-supplied other fishing vessels identified as having engaged in IUU fishing under this Regulation, in particular those included in the Community IUU vessel list or in the IUU vessel list of a RFMO; or
- carried out fishing activities in the area of a RFMO in a manner inconsistent with or in contravention of the conservation and management measures of that organization and is flagged to a State not party to that organization, or not cooperating with that organization as established by that organization; or
- no nationality and is therefore a stateless vessel, in accordance with international law.

In terms of product coverage, the EU-IUU Regulation applies to “any product which falls under Chapter 03 and Tariff headings 1604 and 1605² of the Combined Nomenclature established by Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, with the exception of products listed in Annex 1 of this Regulation.” The products listed in Annex I of the IUU Regulation upon its adoption are: freshwater fishery products; aquaculture products obtained from fry or larvae; ornamental fish; live oysters; scallops, including queen scallops of the genera *Pecten*, *Clamys* or *Placopecten*, live fresh or chilled; Coquilles St Jacques (*Pecten maximus*), frozen; other scallops, fresh or chilled; mussels; snails, “other than those obtained from the sea”; and prepared and preserved molluscs.

4.0 Measures suggested in the EU-IUU Regulation

The measures outlined in the EU-IUU Regulation are, on paper, generally consistent with those called for under international fisheries instruments and measures being implemented by RFMOs. Four elements of the EU-IUU Regulation are particularly relevant to any consideration of the Regulation’s likely impacts on trade. These elements are:

- Port control of third country fishing vessels;
- Catch certification requirements;
- Establishment of the Community IUU vessel list; and
- Establishment of a list of non-cooperating third countries.

4.1 Port control of third country fishing vessels

Chapter II of the EU-IUU Regulation deals with inspections and control of third country fishing vessels seeking access to the ports of EC member-states. Under this Chapter, landings or transshipments by third country fishing vessels shall only take place in designated ports of EC member-states and subject to specific conditions. Masters of third country fishing vessels intending to enter the ports of an EC member-state are

² *Tariff heading 1604 denotes prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs. In detail it includes: fish, whole or in pieces, but not minced, salmon, herring fillets, raw, coated with batter or breadcrumbs, deep frozen, other, sardines, sardinella and brisling or sprats, tunas, skipjack and atlantic bonito (Sarda spp.), mackerel, Scomber scombrus and Scomber japonicus, anchovies, salmonidae- other than salmon, fish of the genus Euthynnus, other than skipjack (Euthynnus (katsuwonus) pelamis), fish of the species Oorcyropsis unicolor, other prepared or preserved fish. Tariff heading 1605 denotes crustaceans, molluscs and other aquatic invertebrates prepared or preserved and in details it includes; crab, shrimps and prawns, lobster, other crustaceans, molluscs and other aquatic invertebrates (<http://www.legalex.eu/text/en/T60600.htm>).*

required to notify and submit specific information to the competent authorities of the relevant EC member-state at least 3 working days before the estimated time of arrival at the port³.

The notice of intention to enter into the port is to be accompanied by a validated catch certificate if the third country fishing vessel in question carries fishery products on board. The responsibility to verify the accuracy of the information transmitted by the third country fishing vessel in the prior notice and the catch certificate rests with the EC member-state. A third country fishing vessel may be granted authorization to access the port if the fishery products on board are accompanied by a catch certificate, and after other information provided to the competent authorities of the relevant EC member-state has been verified as complete.

Where the information provided by the fishing vessel is not complete or its verification is pending, an EC member-state, acting as a port State, may authorize port access or permit all or part of a landing in port, but would need to keep the fishery products concerned in storage under the control of the competent authorities, until the rest of the required information has been received or the verification process is completed. If the verification process is not completed within 14 days of the landing, the EC port member-state may confiscate and dispose of the fish in accordance with its national laws. Storage costs are required to be borne by the operators of the vessel.

Masters of third country fishing vessels intending to use the ports or transshipment facilities of an EC member-state are also required to submit a declaration indicating the quantity of fishery products by species to be landed or transshipped, in addition to the date and place of each catch. EC port member-state are required to retain such declarations for a minimum period of three years and notify the European Commission on a quarterly basis of quantities landed or transshipped by third country fishing vessels. The EC member-states are required to carry out inspections in their ports of at least 5 percent of landings and transshipment operations by third country fishing vessels each year.

The proposed Regulation also requires the mandatory inspection of all fishing vessels that have been sighted as or presumed to have conducted IUU fishing and have been reported in the Community alert system, or have been listed under an RFMO-IUU List. The inspection may cover the fishing vessel's documents, logbook, fishing gear, catch onboard and other possible evidence that might be of relevance to the alleged IUU fishing activities. If the results of inspection disclose evidence that a third country fishing vessel has engaged in IUU fishing, the EC port member-state is required not to authorize the landing or transshipment of catch in the port. In such circumstances, the EC port member-state is to immediately notify its decision to the European Commission and transmit notification to the competent authority of the vessel's flag State. Where the suspected IUU fishing has taken place on the high seas or in the maritime waters of a third country, the EC port member-state is required to cooperate with the flag State in carrying out investigations into the suspected breach, and where appropriate, in applying penalties consistent with international law.

4.2 Catch certification requirements

Chapter III of the EU-IUU Regulation starts with the premise that the importation into the EC of fishery products obtained from IUU fishing shall be prohibited. In general, the importation of fishery products into the EC would only be allowed when accompanied by a catch certificate, completed by the master of the fishing vessel and validated by the flag State of the vessel. To be valid, the catch certificate must contain all information specified in the template documents shown in Annex II of the EU-IUU Regulation, including:

- **Basic information such as the name of the fishing vessel, home port and registration number, call sign, license number, Inmarsat number and IMO number (if issued);**
- **Information on the product (the type of species, catch areas and dates, estimated live weight and verified weight landed, as well as the applicable conservation and management measures and any transshipment at sea is also required); and**

³ *The information to be provided includes vessel identification; name of the designated port of destination and the purposes of the call, landing, transshipment or access to services; fishing authorization, or, where appropriate, authorization to support fishing operations or to transship fishery products; dates of the fishing trip; estimated date and time of arrival at port; the quantities of each species retained on board or, where appropriate, a negative report; the zone or zones where the catch was made or where transshipment took place, whether in Community waters, in zones under the jurisdiction or sovereignty of a third country or on the high seas; the quantities for each species to be landed or transshipped (See IUU Regulation, Article 6(1)). Masters of third country fishing vessels are exempted from providing certain information specified in Article 6(1) where a catch certificate for the full catch to be landed or transshipped in EC territory has been validated in accordance with Chapter III of the IUU Regulation.*

- ***Information and declaration on export and import of the fishery product (including the vessel name and flag, flight number, airway bill number, truck nationality and registration number, other transport documents and container number).***

Export and indirect import of fishery products are also subject to the validation of a catch certificate by the competent authorities. Verifiable documentation or certification is required of products constituting one single consignment which are transported in the same form to the EC from a third country other than the flag State. Similarly, verifiable certificates are required for products constituting one single consignment which have been processed in a third country other than the flag State. Proper documentation is required of every step of transshipment or transit, as well as the exact description of the unprocessed and processed products and their respective quantities:

Consignments subject to transport (transshipment, transit or temporary warehousing):

In this case the conditions stipulate that:

- (a) the consignment is accompanied by a certificate validated by the flag state; and
- (b) there is documentary evidence that the consignment remained under the surveillance of the Competent Authority, and did not undergo processing. This evidence should be in the form of either a) a single transport document, and b) certificate from the competent authorities of the state of export which describes products and indicates dates of unloading/ loading and identifies the vessels/ transport means used.

Consignments subject to processing:

Here the conditions stipulate that:

- (a) the consignment is accompanied with catch certificate validated by the flag state (or a copy in cases where only a partial catch has been used in the consignment); and
- (b) the consignment is accompanied by a statement from the processor and endorsed by the Competent Authority (in accordance with a specific form in Annex IV of the EU-IUU Regulation) which (a) describes and quantifies the unprocessed and processed products, and (b) states that the consignment has been processed from catches referred to on the certificate.

In both the above cases (either transport or processing in country other than flag state) an alternative condition is that the consignment be accompanied by a re-export certificate validated under a catch documentation scheme of an RFMO, provided that the State of export has fulfilled notification requirements for validation of re-export certificates. In order for the RFMO scheme to apply, it must be recognized as meeting the requirements of Regulation 1005/2008. It should be noted that this can only apply to the relevant species (*e.g.* some tunas or tooth fish).

Catch certification from small-scale fisheries⁴

The role of small-scale fishers in international fisheries trade gives rise to two potential difficulties in relation to the catch certification system. The first is in relation to the volume of certification and validation activity should the EU-IUU Regulation be applied in strict sense to these fisheries. The second is that intermediate traders have evolved to deal with the distribution logistics in this sector, again in large numbers. The intermediate traders perform the functions of:

- Buying from producers, and physically distributing product in a single location together in quantities large enough to cater to export processing;
- Grading raw material and making up consignments for supply to export processors to meet export orders (in terms of species, quantities, size grades and qualities).

⁴ MEGAPESCA Lda (2009), *Analysis of Expected Consequences for Developing Countries of the IUU Fishing Proposed Regulation and Identification of Measures Needed to Implement the Regulation – Phase 2, Final Report.*

In a given export supply chain, these functions may be performed by a single or sometimes two intermediate traders. The implementation of the catch certification system could therefore present considerable challenges, which *inter alia* are:

- Large numbers of landings events;
- Low level of literacy of small-scale fishers;
- Weak implementation of fisheries MCS (monitoring, control and surveillance) at each level;
- Lack of traceability in the supply chain to link export consignment to fishers through intermediate traders;
- Large numbers of certificates to be included in a single consignment⁵.

Acceptance of catch certificate

The acceptance of catch certificates from a flag state is conditional on the Commission receiving prior notification under Article 20 concerning:

- Administrative arrangements for the implementation, control and enforcement of the laws regarding fishing vessels;
- Identification of public authorities properly empowered to attest the veracity of the certificates, with capacity to carry out verifications on request. Specific information to be provided is set out in Annex III of the EU-IUU Regulation, and includes notification of names, addresses, official seals and signatories of public authorities empowered with regard to fishing vessel registration, issue and withdrawal of fishing licences, fisheries control and enforcement, attestation and verification on request, and provision of samples of catch certificates. Flag state notification in respect of RFMO catch certification schemes may be accepted if the relevant scheme is recognized as meeting the requirements of the Regulation 1005/2008. This will be specified in the implementation rules and guidelines under preparation by the Commission⁶.

On receipt of notification from the flag states, the Commission will scrutinize the information provided on the basis of requirements set out in the EU-IUU Regulation. If the information provided is found satisfactory, the Commission will inform the concerned flag state regarding the same or, may ask for additional information and issuing of a fresh notification.

The EU-IUU Regulation gives wide powers to the competent authorities of EC member-state to carry out all of the controls they deem necessary for the validation of the catch certificate and other information provided. In addition to the inspection of fishing vessels at port, these control measures may consist of examining the products, verifying declaration data and the existence and authenticity of documents, examining the accounts of operators and other records, inspecting means of transport, including containers and storage places of the products and carrying out official enquiries. The competent authority of the EC member-state may, for the purpose of verification, request the assistance of the competent authorities of the flag State or of a country other than the flag State from which the fishery products have been indirectly imported.

Importers are required to submit validated catch certificates to the competent authorities of the EC member-state in which the product is intended to be imported at least three working days before the estimated time of arrival into the territory of that State.

⁵ *For example, the Thailand surimi sector uses low value demersal fish (lizard fish, threadfin bream, sweetlips) from the small-scale sector. Even if the landed quantity of fish from a single vessel was 500 kg, then a single export consignment of surimi (20 tonne container) would need to list at least 66 catch certificates (taking into account yield factors). With exports of some 1 800 tonnes/ year, this implies about 6 300 catch certificates. A similar ratio applied to cephalopods, where small-scale fisheries also feature prominently in the catching, would suggest some 300 000 catch certificates to track.*

⁶ *IOTC has a Statistical Document Programme for Bigeye Tuna (*Thunnus obesus*). The Programme, which came into effect on July 1, 2002, exempts tunas caught by purse seiners and pole and line (bait) vessels and destined principally for canneries in the IOTC Convention Area. Under Chapter III, Article 13 of the IUU Regulation, the use of the IOTC Bigeye Tuna Statistical Documents (Export and Re-Export Documents) by States which are members of the IOTC, may be accepted as an alternative to the European Community's Catch Certificate when they export bigeye tuna caught in the IOTC Area to market in the European Community.*

However, an importer who has been granted the status of an approved economic operator has the option to merely advise the EC member-state of the arrival of the products and keep the validated catch certificates for verification of the competent authority at a later stage when the fishery product has entered the territory of the EC member-state.

According to Article 16(3) of the EU-IUU Regulation, the status of an approved economic operator may be granted on the basis of the following criteria:

- The establishment of the importer on the territory of that member-state;
- A sufficient number and volume of import operations to justify the implementation of the Article 16(2);
- An appropriate record of compliance with the requirements of conservation and management measures;
- A satisfactory system of managing commercial and, where appropriate, transport and processing records, which enables the appropriate checks and verifications to be carried out for the purpose of the EU-IUU Regulation;
- The existence of facilities with regard to the conduct of those checks and verifications; where appropriate, practical standards of competence or professional qualifications directly related to the activities carried out; and where appropriate, proven financial solvency.

These criteria are similar to those implemented to determine the list of authorized establishments complying with EU-SPS Regulations. A range of actions may be taken by EC member-states against third country fishing vessels that have not complied with the catch certification requirements. EC member-states are permitted to refuse importation of fishery products without having to request additional evidence or send a request for assistance to the flag State on a number of discretionary grounds. *Figure 1* (page 30) summarises the procedure.

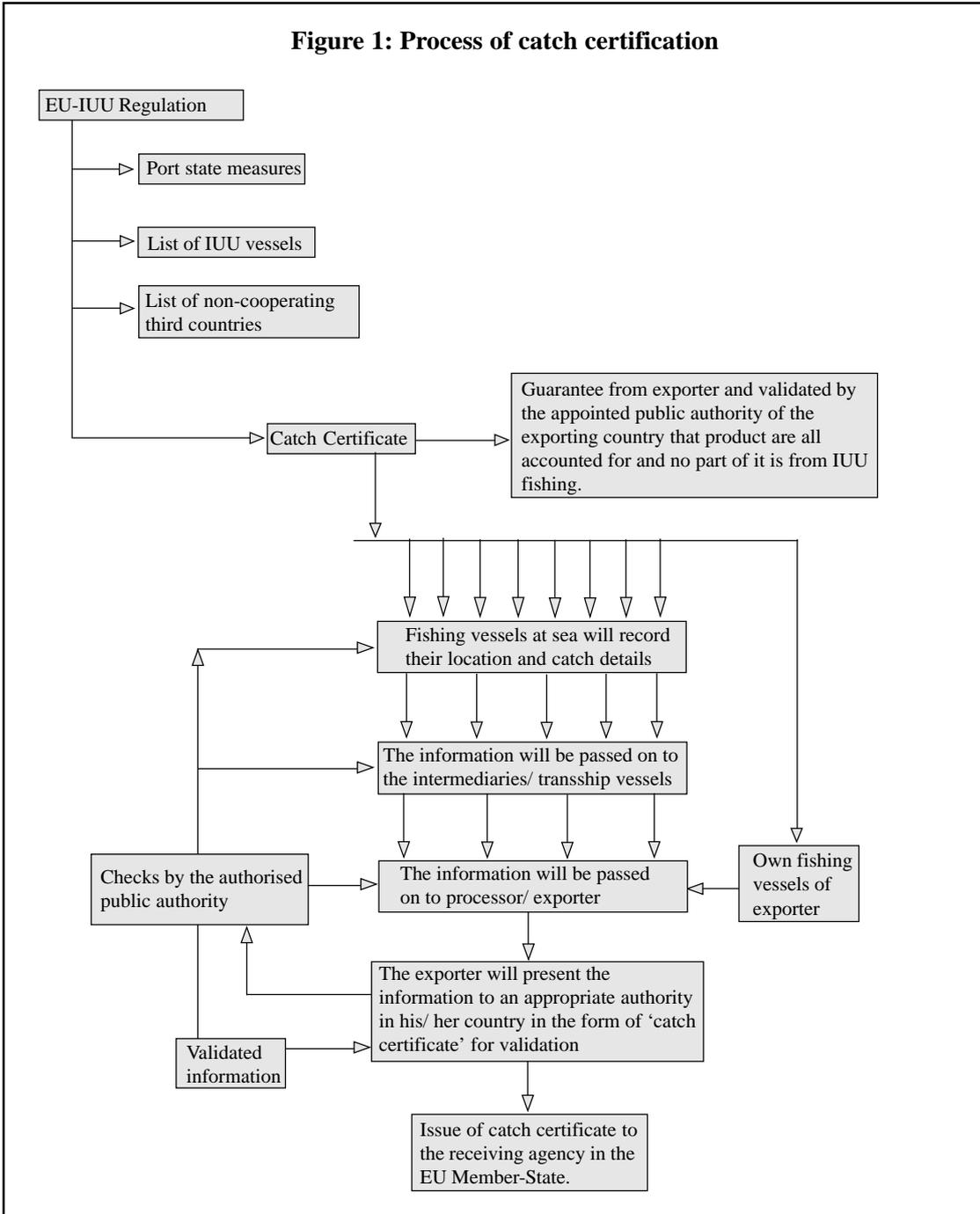
4.3 EU-IUU Vessel List

A major feature of the EU-IUU Regulation is the creation of a Community IUU vessel list, which will contain information on vessels identified by the EC and the member-states to have engaged in IUU fishing. The IUU list is to be established on the basis of compliance with the regulation, catch data, trade information obtained from national statistics and other reliable sources, vessel registers and databases, RFMO catch document or statistical document programmes, reports on sightings of presumed IUU vessels, including information obtained by RFMOs, other relevant information obtained in ports or on fishing grounds and other additional information provided by member-states. The IUU vessel list will also include IUU vessels listed by RFMOs on their respective IUU lists.

The actions that may be taken by EC member-states against vessels on the Community IUU vessel list are varied and include the following:

- Flag member-states shall not submit to the Commission any requests for fishing authorizations in respect of IUU fishing vessels;
- Current fishing authorizations or special fishing permits issued by flag member-states in respect of IUU fishing vessels shall be withdrawn;
- IUU vessels flying the flag of a third country shall not be authorized to fish in Community waters and shall be prohibited to be chartered;
- Fishing vessels flying the flag of an EC member-state shall not in any way assist, engage in fish processing operations or participate in any transshipment or joint fishing operations with fishing vessels on the IUU vessel list;
- IUU vessels flying the flag of a member-state shall only be authorized access to their home ports and no other Community ports except in case of *force majeure* or distress;
- IUU vessels flying the flag of a third country shall not be authorized to enter into a port of a member-state, except in case of *force majeure* or distress; alternatively, a member-state may authorize the entry into its ports of an IUU fishing vessel on the condition that the catches on board and,

Figure 1: Process of catch certification



where appropriate, fishing gear prohibited pursuant to conservation and management measures adopted by RFMOs are confiscated;

- Member-state shall confiscate catches and, where appropriate, fishing gear prohibited pursuant to RFMO conservation and management measures on board IUU fishing vessels, which have been authorized to enter their ports for reason of *force majeure* or distress;
- IUU fishing vessels flying the flag of a third country shall not be supplied in ports with provisions, fuel or other services, except in case of *force majeure*;
- IUU fishing vessels flying the flag of a third country shall not be authorized to change the crew, except as necessary in case of *force majeure*;
- Member-state shall refuse the granting of their flag to IUU fishing vessels;
- The importation of fishery products caught by such vessels shall be prohibited, and accordingly catch certificates accompanying such products shall not be accepted or validated;
- The exportation and re-exportation of fishery products from IUU vessels for processing shall be prohibited;
- IUU fishing vessels with no fish and crew on board shall be authorized to enter a port for its scrapping, but without prejudice to any prosecution and sanctions imposed against that vessel and any legal or natural person concerned.

4.4 EC list of non-cooperating third countries

In addition to a list of IUU vessels, the EU-IUU Regulation provides for the establishment of a list of non-cooperating third countries. A State may be identified as a non-cooperating third country if it fails to discharge the duties incumbent upon it under international law as flag, port, coastal or market State and to take action to prevent, deter and eliminate IUU fishing activities. The listing of such States is based on a number of considerations and factors, including:

- Examination of measures taken by the State concerned in respect of recurrent IUU fishing activities carried out or supported by vessels flying its flag or by its nationals, or by vessels operating in its waters or using its ports, or of access of fisheries products stemming from IUU fishing activities into its market;
- Whether the State concerned effectively cooperates with the EC by providing a response to requests made by the European Commission to investigate, provide feedback or follow-up to IUU fishing and associated activities;
- Whether the State concerned has taken effective enforcement measures in respect of the operators responsible for IUU fishing, and in particular whether sanctions of sufficient severity to deprive the offenders of the benefits accruing from these activities have been applied;
- The history, nature, circumstances, extent and gravity of the manifestations of IUU fishing activities considered;
- For developing countries, the existing capacity of their competent authorities;
- The ratification of or accession of the States concerned to international fisheries instruments, and in particular the LOSC, UN Fish Stocks Agreement, and the FAO Compliance Agreement;
- The status of the State concerned as a contracting party to regional fisheries management organizations, or the State's agreement to apply the conservation and management measures established by such organizations;
- Any acts or omissions by the State concerned that may have diminished the effectiveness of applicable laws, regulations or international conservation and management measures;
- Where appropriate, specific constraints of developing countries, in particular in respect to monitoring, control and surveillance of fishing activities.

The EU-IUU Regulation requires the prohibition on the importation into the EC of fishery products caught by fishing vessels flying the flag of non-cooperating third countries, and non-acceptance of catch certificates

accompanying such products. In cases where the identification of a non-cooperating State is justified by the lack of appropriate measures adopted by the State in relation to IUU fishing activities affecting a given stock or species, the prohibition of importation may only apply in respect of this stock or species. Of particular relevance to the ACP member-state is the provision in the EU-IUU Regulation regarding the denunciation by the EC of any standing bilateral fisheries agreement or fisheries partnership agreements with such States, as well as refusal to enter into negotiations to conclude a bilateral fisheries agreement or fisheries partnership agreements with such States.

5.0 Implications for countries benefited under Generalised System of Preferences (GSP).

GSP is a system of exemption from WTO rules aimed at promoting developing countries exports by allowing their products preferential access to the markets of developed countries. Sri Lanka is on the list of the beneficiary countries which qualifies for the special incentive arrangement for sustainable development and good governance, provided for by Article 26(e) of Council Regulation (EC) No 980/2005 applying a scheme of Generalised System of Preferences. Although donor countries are under no obligation in international law to give preferences, almost all developed countries operate GSP schemes, which vary significantly.

The EU-IUU Regulation does not directly curtail access to the EC market by the current beneficiaries of the GSP, GSP-EBA and GSP+. However, the additional administrative requirements that may be required to implement the proposed Regulation (already noted) may have indirect impacts on the ability of GSP, GSP-EBA and GSP+ beneficiaries to attain the basic objective of these market access arrangements, which is to promote economic development and poverty reduction.

6.0 Cooperation with third countries in implementing EU-IUU Regulation

Cooperation under the EU-IUU Regulation has a three-pronged approach and will:

- Provide a legal framework to prevent, deter and eliminate IUU fishing on a case by case basis;
- Establish, with the third countries concerned, commonly agreed administrative rules to facilitate the implementation of the catch certification scheme, taking into account the interests of legitimate trade and specific situations, such as the type of fisheries, control systems in place and/ or trade profiles;
- Provide support to developing countries.

7.0 Concerns

The major concern relating to developing countries is the issue of livelihoods, especially in case of small-scale and artisanal fisheries. In most developing countries, the small-scale and artisanal fishery operates in a *de facto* open access regime. Even if there are legal statutes, the countries usually do not have enough means to enforce an effective system to implement it. Given their scale of operation and numbers, it does not seem feasible to implement an effective MCS system in small-scale fishery in the developing economies in the near future. For example, in countries like Bangladesh and India, a majority of the catch comes from the small-scale sector and part of it is exported to various countries, including the EU. Further, the domestic market for marine fish is also to some extent limited in these countries (Bangladesh, India). Hence, if exports of marine products are affected because of lack of catch certificate, the people who will suffer most would be the small-scale fishers. Any cancellation of export will cause a (temporary) supply glut, pushing the price down. The people in the upper rungs of the fish marketing channel – the exporter, the wholesaler and the local agent – may protect their margins but pay fishers less. This may eventually lead to pauperization of the fishers.

Although the EU is aware of the issues and is willing to cooperate with developing countries to the fullest extent (it may be noted here that the EU has commissioned several studies to gauge the impact of the regulation on developing countries), it is not certain at this point how the issue can be addressed. Viewing this scenario from the EU perspective, if the catch from small-scale fisheries is allowed to enter EU market without catch certification, it is likely that such a channel may be exploited by the IUU operators too. However, since the extent of small-scale and artisanal fishery varies in different countries, the best route may be to engage in bilateral consultation with EU to address the issue.

Apart from livelihoods concerns, trade experts have raised the following concerns about the EU-IUU Regulation and its relationship to international trade rules. As mentioned in earlier paragraphs, the IPOA-IUU prescribes market-related measures subject to the conditions that they obey the WTO agreement.

First: the extension of powers (of sanction, injunction, declaration of non-cooperating states, listing of IUU fishing vessels, etc.) to third countries who are not party to any agreement, or in this case, to a regulation drawn-up unilaterally, although referring to the FAO IPAO on IUU.

Second: the vague, ill-defined, and subjective nature of some of the measures, which contravene the principles of clarity and transparency observed by the rules of multilateral trade, such as “reasonable proof” or inspection of “at least 5 percent of landing and transshipment operations.”

Third: the increased powers of sanction of EC member-states in the form of immediate implementation measures (halting fishing activities, seizure) under Article 43 (Para 1). The EU-IUU Regulation does not mention the possibility of appeal or of compensation if the assumed contravention is not proven. These sanctions may even constitute measures restricting access to EU markets on the basis of presumptions alone.

Fourth: Article 2(8) of the EU-IUU Regulation lays down the definition of “fishery products” to which the Regulation applies and refers to its Annex I containing a list of products excluded from this definition. According to Annex I, aquaculture products obtained from fry or larvae are listed as products which do not fall under the scope of the EU-IUU Regulation. In practical terms the competent authorities in the EC member-states will have to take into consideration this provision by verifying imports of fishery products stemming from catches landed from 01 January 2010 onwards. In this respect it will be important for them to be able to distinguish first wild catches from aquaculture products and in a second step to make a difference between aquaculture products gained from fish and those obtained from fry or larvae. While for the latter ones no specific provisions arise from the EU-IUU Regulation, all other products need to be accompanied by a catch certificate validated by the flag State of the vessel which carried out the fishing⁷.

Finally: the lack of respect for the principles of non-discrimination and equality of treatment between operators and states may be another serious issue. The flexibility envisaged for the EU list of IUU vessels is not applied to third countries’ vessels {Article 27 (Para 8)}. Similarly, the requirement to disembark and use port services in areas or ports reserved for third countries could constitute a source of discrimination against these countries.

Much of these concerns have been addressed with the publications of Rules of the EU-IUU Regulation. These developments took place post RSM: EU-IUU. **Annex 4** (Frequently asked questions) provides answers to these concerns including simplified catch certification for small-scale fishery. **Annex 5** reproduces the detailed rules for implementation of EU-IUU Regulation.



⁷ *Scope of the IUU Regulation - Aquaculture products* (Available from: http://ec.europa.eu/fisheries/cfp/external_relations/illegal_fishing/pdf/aquaculture_products_310809.pdf)

Annex 1: Comparison of EU-IUU Regulation and International Requirements

Key Element of the EU-IUU Regulation	Relevant Provision of International Instruments	Relevant RFMO Conservation and Management Measures
Port State control over third country fishing vessels	IPOA-IUU, Paras 52-60; LOSC, Art. 25; UN Fish Stocks Agreement, Art 23; FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing.	IOTC, Resolution 01/06; Recommendation by IOTC concerning the IOTC Bigeye Tuna Statistical Document Programme.
Catch certification requirements	IPOA-IUU, Para. 69	--
IUU Vessels List	IPOA-IUU, Para. 81.4.	IOTC Resolution 06/01 on 'Establishing a List of Vessels Presumed to have carried out IUU Fishing in the IOTC Area'.
List of non-cooperating States	--	--
Denial of port landing and transshipment	UN Fish Stocks Agreement, Art. 23(3)	IOTC, Resolution 06/01 on Establishing a List of Vessels Presumed to have carried out IUU Fishing in the IOTC Area, Para. 13; IOTC Resolution on IUU Vessels List, Para. 12(e).
Prohibition of importation of fish and other trade restrictive measures	IPOA-IUU Para 66	--

Annex 2: Comparison of EU-SPS Regulations⁸ and EU-IUU Regulation

Key Elements	EU-SPS Regulations	EU-IUU Regulation
Objective	Harmonisation of food laws across EC Member-States to ensure free movement of safe and wholesome food and protect human health and consumer interest.	Each EC Member-State is mandated to take appropriate measures to ensure that all fish and fishery products entering the EU market have not been obtained through IUU fishing. However, such measures are applied without prejudice to the primacy of flag State jurisdiction.
International legal basis	GATT and WTO SPS Agreement, Codex Alimentarius Commission regulations.	IPOA-IUU, LOSC, UN Fish Stocks Agreement, FAO Compliance Agreement, FAO Code of Conduct for Responsible Fisheries, RFMO Conservation and Management measures.
Approach	Sea/ farm-to-fork. Promotes traceability to ensure safety in all aspects of the food production chain.	Same approach but a different objective.

⁸ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety. Amending acts include Regulation (EC) No 1642/2003 and EC No 575/2006.

Key Elements	EU-SPS Regulations	EU-IUU Regulation
<i>Applicable Principles</i>	Use of best scientific evidence available. Recognition of the precautionary principle.	Calls for scientific expertise to support some of the elements of the proposed regulation's implementation, but not clear as to how scientific principles will be taken into account in establishing catch certification system. Proportionality principle.
<i>Import requirements</i>	Entrance of imported fishery products via an approved Border Inspection Post. Compliance with certification requirements. Recognition of a competent authority. Must fulfill relevant animal, hygiene, and public health standards. Must fulfill other specific conditions. For example, for live and processed bivalve mollusks, etc, imports are only permitted from approved and listed production areas. In case of aquaculture products, a control plan for heavy metals and contaminants must be in place. Recognition of authorized approved vessels and establishment. Inspection missions by EC in third countries. Positive list of eligible countries for the relevant product.	Port state control for third country fishing vessels (<i>e.g</i> designated ports, prior notice, port inspection, etc). Compliance with proposed catch certification system. Validation of catch certificates by competent authorities of flag State. Compliance with international agreements and national laws and regulations. Compliance with RFMO obligations. List of approved economic operators. List of IUU vessels. List of non-cooperating third countries.
<i>Measures against non-compliance</i>	Fishery product is either destroyed or under certain conditions, re-dispatched within 60 days.	IUU products are refused to be landed or transshipped. Importation of fishery products prohibited. Business with IUU vessels prohibited. Possible denunciation of existing bilateral fisheries agreements.
<i>Responsible EC Body</i>	European Food Safety Authority, whose main task is to provide assistance and independent scientific advice.	Commission
<i>Alert System</i>	Rapid alert system	Community Alert System, IUU vessel list. List of non-cooperating third countries.
<i>Technical and financial assistance</i>	Development funding arrangements and technical training provided to developing countries such as ACP and Asian States and OCT (<i>e.g.</i> SFP program)	General provision on proposed cooperative administrative arrangements. General provision on proposed mutual assistance.



Annex 3: Explanation of the Regulations referred to in Council Regulation (EC) No 1005/2008

Council Regulation (EEC) No 2847/1993:

Council Regulation (EEC) No 2847/93 of 12 October 1993 establishes a control system applicable to the common fisheries policy (CFP). In order to ensure compliance with the rules of the CFP, a Community system is hereby established, including in particular provisions for the technical monitoring of:

- conservation and resource management measures,
- structural measures,
- measures concerning the common organization of the market,
- as well as certain provisions relating to the effectiveness of sanctions to be applied in cases where the above-mentioned measures are not observed.

To this end, each member-state shall adopt, in accordance with Community rules, appropriate measures to ensure the effectiveness of the system. It shall place sufficient means at the disposal of its competent authorities to enable them to perform their tasks of inspection and control as laid down in this Regulation.

The system shall apply to all fishing activities and to all associated activities carried out within the territory and within the maritime waters subject to the sovereignty or jurisdiction of the member-states, including those exercised by vessels flying the flag of, or registered in, a third country, without prejudice to the right of innocent passage in the territorial sea and the freedom of navigation in the 200-mile fishing zone; it shall also apply to the activities of Community fishing vessels which operate in the waters of non-member countries and on the high seas, without prejudice to the special provisions contained in fisheries agreements concluded between the Community and third countries or in International Conventions to which the Community is a party.

(This Regulation has been amended by the Council Regulation (EC) No 1005/2008)

Council Regulation (EC) No 1936/2001:

Council Regulation (EC) No 1936/2001 of 27 September 2001 lays down control measures applicable to fishing for certain stocks of highly migratory fish species listed in Annex I to this Regulation and applies to vessels flying the flag of member-states and registered in the Community (hereinafter referred to as Community fishing vessels), operating in one of the zones specified in Article 2.

(This Regulation has been amended by the Council Regulation (EC) No 1005/2008)

Council Regulation (EC) No 601/2004:

Council Regulation (EC) No 601/2004 of 22 March 2004 pertains to laying down certain control measures applicable to fishing activities in the area covered by the Convention on the Conservation of Antarctic Marine Living Resources and repealing Regulations (EEC) No 3943/90, (EC) No 66/98 and (EC) No 1721/1999. This Regulation lays down general rules and conditions for the application by the Community of:

- (a) control measures applicable to fishing vessels flying the flag of a Contracting Party to the Convention for the Conservation of Antarctic Marine Living Resources, (Convention), operating in the Convention area in waters located beyond the limits of national jurisdictions;
- (b) a system to promote compliance by vessels flying the flag of a non-Contracting Party to the Convention with conservation measures laid down by the Commission for the Conservation of Antarctic Marine Living Resources, (CCAMLR).

(This Regulation has been amended by the Council Regulation (EC) No 1005/2008)

Council Regulation (EC) No 1093/1994:

Council Regulation (EC) No 1093/94 of 6 May 1994 pertains to setting the terms under which fishing vessels of a third country may land directly and market their catches at Community ports. Fishery

in the Regulation refer to all products brought directly from the catch location, possibly after transshipment at sea from another vessel, and covered by Chapter 3 of Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (4).

(This Regulation has been repealed by the Council Regulation (EC) No 1005/2008)

Council Regulation (EC) No 1447/1999:

Council Regulation (EC) No 1447/1999 of 24 June 1999 establishes a list of types of behaviour which seriously infringe the rules of the common fisheries policy. This Regulation *inter alia* includes infringements such as (i) failure to cooperate with the authorities responsible for monitoring; (ii) obstructing the work of fisheries inspectors in the exercise of their duties in inspecting for compliance with the applicable Community rules; (iii) falsifying, concealing, destroying or tampering with evidence which could be used in the course of inquiries or judicial proceedings; (iv) fishing without holding a fishing licence, a fishing permit or any other authorization required for fishing and issued by the flag Member State or by the Commission; (v) using prohibited fishing methods; (vi) unauthorised fishing in a given zone and/or during a specific period.

(This Regulation has been repealed by the Council Regulation (EC) No 1005/2008)

Annex 4: Frequently asked questions on EU-IUU Regulation (Council Regulation (EC) No. 1005/ 2008)

This document provides answers to some of the most common questions on how the new EU-IUU regulation will be implemented. It also includes questions and answers that were posed to the European Commission during their regional seminars with third countries and their meetings with stakeholders. It has been prepared by combining information from the following two sources:

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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 (The IUU Regulation)
European Commission
Directorate-General for Maritime Affairs and Fisheries
Ref: Mare A4/PS D(2009) A/12880

A. Scope of the Regulation

Q1: What products are included in the regulation?

A: All products listed in chapter 03, and tariff headings 1604 and 1605 of the Community Combined Nomenclature are included in the scope of the Regulation, except those products listed in Annex I of the Regulation, namely freshwater, farmed and ornamental fish, some molluscs (snails, oysters, scallops) and flours, meals and pellets of fish, fit for human consumption.

Q2: Why are some products excluded?

A: Certain fishery products have been excluded from the scope of the Regulation under Annex I since they are either already under specific measures such as products obtained from aquaculture, or products of minor importance from the perspective of conservation and management measures and trade to the EC.

Q3: Since aquaculture products obtained from fry or larvae are excluded from the scope of the Regulation, how can they be distinguished from the products covered (in particular if they are the same species)? Which practices or methodologies are in place to distinguish the products in practice?

A: It will be an issue for the authorities of the EU Member-States to control and distinguish the consignments falling within the scope of the EU-IUU Regulation. Since, for a number of legal and administrative considerations, the exporter knows the exact nature of the products exported, he knows when he has to request a catch certificate. Controls will be carried out in the EU Member-States and if discovered that products covered by the EU-IUU Regulation are being declared as aquaculture products obtained from fry or larvae, the EU Member- States will take measures under the EU-IUU Regulation and will hold the importer responsible for the false declaration and the respective third countries authorities will be informed. In case of doubts, an analysis of the product could be carried out where information of the respective third country could be requested as well. The third countries have been invited to communicate details on relevant species subject to aquaculture by using fry or larvae which will be used by the competent authorities of the EU Member-States to facilitate the identification of products covered or not covered by the catch certification scheme. Whilst such details might be valuable, they can however not constitute legally binding information for competent authorities in order to know what shall be verified and what not. In that respect, it is reminded

that the authorities of the exporting countries are the first layer of potential verification of the accuracy of the information on the exported goods with regard to this specific topic.

Q4: Does the EU-IUU Regulation apply to catches obtained before 1 January 2010?

A: No, the scope of the EU-IUU Regulation will only cover marine catches made from 1 January 2010. The EU-IUU Regulation does not apply to products processed from catches obtained before 1 January 2010. Such products do not need to be accompanied by a catch certificate even if they are imported to the EU after 1 January 2010. This effectively means that some consignments will enter the EC after this date without a catch certificate since the products were caught prior to this deadline. The EC is aware of the fact that raw materials used to process products and the processed products themselves may be kept in storage for a certain time, depending on various factors, before being traded to the EC. No specific deadline or transition periods are imposed as the EU-IUU Regulation applies to all products in a nondiscriminatory manner. If breaches and false declarations under the EU-IUU Regulation are detected, it will be the importer in the EU Member-State who will be held responsible. In order to avoid any delay at the stage of importation, it is advisable to present suitable documentation on the catch date to the competent EU Member-States' authorities when products are to be imported stemming from catches operated before 01 January 2010 which do not need a catch certificate.

Q5: How would this work in practice – how will the competent authorities in the EU Member-States verify that the products stem from catches obtained before or after 1 January 2010? What documents should be presented to justify the date of catches?

A.: Certain cases are obvious when determining if catches were taken before or after 1 January 2010. For instance, fresh fish will be covered within the first days of application. The duration of transport is also another determining factor for the date of effective implementation of the EU-IUU Regulation in the EC for imported consignments. With the cutting date of 1 January 2010 this means products which are not submitted to the catch certification scheme may be imported without a catch certificate if they stem from catches taken before 1 January. This does however not mean that those products do not have to comply with the relevant applicable conservation and management measures. In case of doubt about the catch date, the competent authority in an EU Member-State may look for any suitable information which could indicate when the catches were carried out. Article 17(1) of the IUU Regulation lays down that "EU Member-States may carry out all of the verifications they deem necessary to ensure that the provisions of this Regulation are correctly applied".

Q6: What about fishing vessels operating illegally without having any link or impact to the trade with the EC?

A: The EU-IUU Regulation only applies if there is a link with the EC either via trade or via the involvement of EC nationals. However, other IUU vessels will be included in the EC IUU vessel list where they have been identified by RFMOs, as provided for by Article 27 of the EU-IUU Regulation.

Q7: Is airfreight covered by the Regulation?

A: Yes. Consignments shipped by airfreight, rail or road are covered by the Regulation. The deadlines for the submission of catch certificates will be set out in the implementing regulation. The deadline for airfreight is likely to be 4 hours.

Q8: How can the various roles and responsibilities of the different countries involved be summarized?

A: The role of EU Member-States will be to carry out controls and verifications on imports and to communicate the outcome of these verifications to the flag and coastal States concerned.

The Flag State will always be responsible for the validation of the catch certificate. This applies equally to EU Member-States, when they have to validate catch certificates for products stemming from its own vessels which are to be exported, if the receiving third country asks for a catch certificate.

The market or processing State will not have to carry out any validations or verifications of the catch certificate. However, it has to ensure the traceability of the products and endorse the statement at Annex IV of the regulation.

There are no specific obligations for coastal States under the EU-IUU Regulation. However, if verifications in a Member-State detect that a foreign vessel carrying out fishing activities in the EEZ of another country did not comply with the conservation and management measures of that country, information on these activities will be transmitted to both the flag and the coastal State. Both States then may decide to take further action according to national law.

B. Definitions

Q9: What is meant by a “consignment”?

A: “Consignment” is defined in Article 2(23) of the regulation and refers to products either shipped simultaneously from one exporter to one consignee, or covered by a single transport document covering their shipment from the exporter to the consignee, irrespective of size, which could range from a single box up to several containers.

Q10: What are “applicable” conservation and management measures?

A: “Applicable” conservation and management measures are those that a country has adopted. They may consist of international, regional and/or national conservation and management measures.

C. Fishing vessels and inspections

Q11: Will a prior notification of 3 working days be required in all situations?

A: No, the implementing rules will provide shorter deadlines for fresh products and fishery products transported by means other than shipping or fishing vessels.

Q12: When will a third country vessel be granted entry to an EC port?

A: A third country fishing vessel will be granted entry to an EC port if the information set out in Article 6 on prior notification is completed, and if the products are accompanied by a validated catch certificate.

D. The catch certificate scheme

Q13: Who completes the catch certificate?

A: The exporter needs to ensure that boxes 1-9 of the catch certificate are completed before it is transmitted it to the competent authority for validation. Catch certificates are completed on a consignment-basis.

The validating authority should thereafter send the certificate back to the exporter before he transmits it to the EC importer.

Full details of how to complete a catch certificate will be included in the European Commission’s guidance handbook.

Q14: Can one catch certificate contain catches from several vessels?

A: It depends. Normally the catch certificate only refers to one vessel per certificate.

However, if the consignment comes from several small vessels the simplified catch certificate should be used which can contain a list of several vessels. The simplified certificate does not require the same type of details on the vessel as the example provided at Annex II to the regulation, and the vessel master is not required to sign the certificate.

Details of the simplified catch certificate will be provided in the implementing regulation which is to be published in the autumn. An exporter may use the simplified certificate for consignments stemming from several small vessels. The criteria for a small vessel will also be included in the implementing regulation.

Q15: Should there be one separate catch certificate for each species?

A: A catch certificate should be requested from the exporter on a consignment basis. This means that if more than one species is included in one consignment; one catch certificate can cover the different species.

Q16: Who validates catch certificates?

A: It will be the responsibility of the flag state of the catching vessel to validate the certificate. Third countries are required to notify the designated competent authorities responsible for validating catch certificates, to the European Commission. The requirements for the notification of competent authorities are laid down in Annex III to the regulation.

Third countries can designate one or several competent authorities. However, the competent authority must be a public authority empowered to attest the veracity of the information contained in the catch certificate and carry out verifications on request from Member-States, as provided in Article 17 of the Regulation.

Information on all countries who have notified their competent authority/ies for the purpose of validation of catch certificates will be published by the European Commission for the benefit of all stakeholders.

Q17: Can a vessel which has carried out illegal activities, but which has been sanctioned, obtain a validated catch certificate for products stemming from these activities?

A: Since those products would still stem from IUU activities, no catch certificate can be validated stating that the product has been obtained by respecting applicable conservation and management rules, even if the IUU activity has been sanctioned.

Q16: Does the whole catch need to be included in the catch certificate, even if only part of it is exported to the EC?

A: The catch certificate always refers to an export to the EC. The catch certificate is therefore not issued for the catch in total but only for the part to be exported.

Q18: How can the master of a fishing vessel sign a catch certificate if he is on the high seas?

A: A representative of the master can either request the validation of the catch certificate or the communication can be carried out by electronic means.

Q19: How can the competent authority of the flag State validate a catch certificate if the catch is landed in another third country?

A: In cases where the catches are not landed in a port of the flag state, either a representative of the master can request the validation of the catch certificate or the communication and transmission could be carried out by electronic means. The use of electronic means by third country authorities (provided for by Article 12 of the regulation) has to be notified to the Commission.

Q20: Can the validated catch certificate be communicated electronically?

A: Yes, the catch certificate may be communicated by electronic means (between the exporter and the importer) as set down in Article 12(4) of the regulation.

Q21: Is the format of the catch certificate fixed?

A: The layout of the catch certificate is not set in stone and it is up to the third country to decide if additional annexes of extension of boxes in the catch certificate are necessary, as long as the required information is included. Thus, the format of the certificate may be designed according to national needs. However, all catch certificates from a third country must be identical to a sample form submitted to the European Commission.

Q22: Can the reference number of the health certificate be used as document number?

A: No, they are separate documents, established to serve different purposes. It is up to each country to decide upon the structure of document numbers, but the Commission suggest using a common structure, which can be found at section 8.2(a) of the Commission's "technical note" on the operation of the catch

certificate scheme. This can be found on the Commission's website, or by clicking the link on the EU-IUU Regulation page of the Defra website.

Q23: Can a health certificate or the certificate of origin replace the catch certificate?

A: No. The health certificate or the certificate of origin cannot be used as a catch certificate as their purpose is not to ensure compliance with conservation and management rules.

Q24: What is a catch area?

A: A catch area can either be the internal waters or EEZ of a country, a RFMO area, an FAO area or the name of the Sea.

Q25: How can a flag State verify that the "catch area" noted in the catch certificate was the correct area where the catch was made?

A: Each country will organise its own system of verification. However, if the flag State has evidence that the catch was made in an area other than noted in the catch certificate, it shall not give its validation.

Q26: What level of liability is a competent authority under when validating a catch certificate?

A: Competent authorities may validate that the catch was made in compliance with conservation and management measures and that, at the time of validation, it had no conflicting information suggesting otherwise.

If a Member-State has evidence suggesting otherwise, the competent authority in the third country would be notified, but not held liable.

Q27: How can an importer tell if a third country is eligible to export to the EC?

A: Information on all countries that have notified their competent authority/ies for the purpose of validation will be published by the European Commission for the benefit of all stakeholders. In that way, authorities, processors, importers and exporters will know which countries can validate catch certificates.

Q28: Is a vessel presumed to have carried out IUU activities if its catch did not have a catch certificate?

A: Fishery products without a validated catch certificate will not be able to enter the EC. The absence of this document will mean that, either the Flag State authorities did not validate the certificate or, that the exporter did not apply for a validation.

E. Other catch certificates

Q29: Will measures adopted by RFMOs be taken into account in the EU-IUU Regulation?

A: The EC encourage the adoption of measures designed to combat IUU fishing in RFMOs but believe that regional and international efforts against IUU fishing is not strong enough since the phenomenon is still a growing problem.

The EU-IUU Regulation will take into account some catch documentation schemes adopted by RFMOs. The Commission will list the names of recognised certification schemes adopted by RFMOs in the implementing regulation.

F. Simplified catch certificate for small-scale fisheries

Q30: What will the criteria for small vessels be?

A: The profile of small-scale fisheries varies from one country to another. In the absence of an international definition of small-scale fisheries the Commission introduced criteria in its implementing rules to accommodate this type of fishery. The criteria will focus both on the capacity of the fishing vessel, its length; landing of the catches in the flag state and on the fact that one export consignment is formed from products supplied by several vessels meeting these criteria.

G. Processed products

Q31: Must Annex IV (Indirect importation of fishery products) be completed if the flag State is the same as the processing State?

A: No, Annex IV must only be completed for processing of catches imported from another third country. Processing of catches from the same country will be declared in Annex II by using the boxes “species” and “product code”.

Q32: What if products from one flag State are processed in two different countries?

A: In that case the authority in each country of processing must endorse a statement at annex IV. This means that a consignment will include two separate statements, and be accompanied by the catch certificate(s) when reaching the EC.

Q33: How can a processing plant complete Annex IV if it processes products from several species, as is the case for surimi?

A: In this case, all species used have to be mentioned in the statement in Annex IV.

Q34: Who should endorse the statement at Annex IV?

A: It must be the competent authority responsible for the monitoring of imported raw materials for processing and re-exportation.

Q35: Is freezing of products regarded as processing?

A: No. Freezing is not regarded as processing, but rather preservation. For freezing of products, Article 14(1) (b) of the regulation applies.

Q36: What happens if a consignment is divided after importation to a processing country and sold to different processors?

A: In that case the importer must provide copies of the original catch certificate to his buyers with additional information on the respective quantities sold as laid down in Article 14(1) (b) of the regulation.

Q37: Will five consignments of fish which are mingled at processing require five catch certificates?

A: Yes. A catch certificate must be attached to each catch exported. In case of mingled products several catch certificates must accompany the consignment in order to ensure traceability.

H. Inspection of catch certificates

Q38: How will Member-States organise verifications of catch certificates on import?

A: Once a catch certificate has been submitted it may be selected for verification by a competent Member-State authority, on the basis of risk management, or at random. Verifications may include examining the fishery products, the declaration data and authenticity of the documents, inspection of transport, containers and storage areas, etc.

For the purpose of verification, the competent authorities of the Member-States may request the assistance of the competent authorities of the flag State or of the third country when it has well founded doubt over the validity of the catch certificate or its compliance with conservation and management rules.

Q39: Who pays for storage if a consignment is stopped pending verification?

A: The importer will be responsible for storage costs.

Q40: How can aquaculture and marine products be distinguished, in particular if they are the same species?

A: The Commission has a list of the most important products stemming from aquaculture and will inform the authorities in EC Member-States accordingly, to allow them to target their verifications.

I. Approved Economic Operators

Q41: Are there any provisions to keep the additional burdens of the scheme to a minimum?

A: The regulation does provide for an “Approved Economic Operator” scheme to be set up. The main benefits for importers that meet the required criteria are that catch certificates will not need to be presented at Border Inspection Posts (BIPs). The certificates must be kept for a period of 3 years and be available for checking if requested at a later date. This would save the importer having to pay the Port Health Authorities charge for checking catch certificates at BIPs.

Further details about the Approved Economic Operator Scheme are provided in the Information Note. Details about the application process will be made available in the autumn.

J. IUU Vessel list

Q42: When establishing the EC IUU vessel list, will the Commission take into account IUU vessel lists established by RFMOs, NGOs or other regional or national bodies?

A: The EC IUU vessel list will include vessels engaged in IUU fishing only if the competent flag State did not take appropriate measures to prevent these practices continuing. It will also automatically include the IUU vessels listed by RFMOs.

IUU vessel lists published by NGOs will not be included. Although a valuable source of information, they are not based upon facts established by the relevant competent authorities.

However, the Commission is interested in having information on vessels listed in any other IUU lists for the purpose of inspections and verifications. Such information could be communicated through the Community Alert System.

Q43: Will a fishing vessel taken off an IUU list adopted by an RFMO also be taken off the EC IUU vessel list?

A: Yes, fishing vessels deleted from an IUU vessel list adopted by an RFMO will automatically be deleted from the EC IUU vessel list.

Q44: Can vessels other than fishing vessels be included on the EC IUU vessel list?

A: Only vessels defined in Article 2(5) of the Regulation can be listed in the IUU vessel list. This is similar to IUU vessel lists adopted by RFMOs.

Q45: Can all vessels belonging to a fleet be considered as IUU vessels if one of its fishing vessels was engaging in IUU activities?

A: It would depend on the type of IUU activity and of the relevant RFMO measure, but generally not.

K. List of non-cooperating countries

Q46: How will the EC determine a non-cooperating country?

A: The European Commission will identify third countries that it considers non-cooperating in the fight against IUU fishing, by failing to discharge its duties under international law as a flag, port, coastal or market State.

Before doing so, the Commission will notify the country concerned and provide it with an opportunity to respond to the allegation, or take appropriate measures to rectify the situation within an appropriate time frame.

A country may be removed from the list if it can demonstrate that the situation which warranted the listing has been rectified.

Q47: How long will third countries be given to take appropriate measures in order to avoid being listed as non-cooperating country?

A: Before listing a country as “non-cooperating” there will need to be extensive communication between the Commission and the third country concerned. During this period, specific difficulties can be identified, and the Commission can offer technical assistance to remedy the situation.

Listing a country as non-cooperating would be a last resort if a country continuously failed to cooperate and to improve the situation. The listing would need to be agreed by EU Fisheries Ministers.

L. Sanctions & EC nationals

Q48: What measures will be taken against EU vessels fishing in waters of third countries which have carried out IUU activities?

A: The Fishing Authorisation Regulation which was adopted at the same day as the EU-IUU Regulation complements the EU-IUU Regulation in this respect. This Regulation applies to all EU vessels fishing in third countries’ waters and imposes the obligation for those vessels to have a specific authorisation for their activities. In addition to the measures provided for by the EU-IUU Regulation, more and stricter measures to be taken in cases of IUU activities are also laid down in the Control Regulation.

Moreover, the coastal State is free to take measures and sanctions according to its own national law.

Q49: Can importers also be sanctioned for importing products obtained from IUU activities?

A: Yes, all operators, including importers, can be sanctioned under the EU-IUU Regulation.

M. Assistance for third countries

Q50: Will the European Commission provide assistance and capacity building to developing countries for the purpose of implementing the EU-IUU Regulation?

A: The Commission is committed to assist third countries in the implementation of the EU-IUU Regulation, including through bilateral meetings and a series of regional seminars around the world.

Any specific needs regarding the implementation of the Regulation will have to be communicated in writing to the Commission which will evaluate each request.

More general capacity building may be provided through the Commission’s international development policy.

Operational assistance is provided by several provisions of the EU-IUU Regulation, such as the notifications on vessel inspections, the catch certification scheme and the Community Alert System. Member-States will communicate the outcome of inspections and verifications to the flag and coastal state in order to provide them with information that will allow more targeted action and better use of their resources.

Similarly, the Community Alert System will provide useful information to third countries to better target control measures.

N. General

Q51: Is there any possibility of a delay to the date the regulation comes into force?

A: No. The European Commission has stated that the regulation will come into force on 1 January 2010.

However, since the regulation will only apply to fish caught from 1 January 2010, fishery products stemming from catches obtained before this date, but imported after, do not need to be accompanied by a catch certificate. In practice therefore, the catch certificate scheme will be implemented progressively. It will apply first of all to imports of fresh products, and then progressively to all products.

Annex 5: COMMISSION REGULATION (EC) No 1010/2009 of 22 October 2009

laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing⁽¹⁾, and in particular Articles 6(3), 8(3), 9(1), 12(4), 12(5), 13(1), 16(1), 16(3), 17(3), 20(4), 49(1), 52 thereof,

After consulting the European Data Protection Supervisor,

Whereas:

1. Regulation (EC) No 1005/2008 provides for the adoption of detailed rules and measures to implement the provisions it sets out.
2. In accordance with Articles 6(3) and 16(1) of Regulation (EC) No 1005/2008 the period of three working days set out for the prior notification of landings or transshipments in port and for the submission of catch certificates before the estimated time of arrival of fishery products at the place of entry into the territory of the Community may be modified in the light of certain factors. These factors include: the type of fishery product; the distance between the fishing ground, landing places and ports where the vessels in question are registered or listed; the distance to the place of entry into the territory of the Community; the transport means used. Fresh fishery products and consignments arriving by air, road or rail require a shorter period than three working days.
3. Consistency should be ensured in documents transmitted in relation to prior notification of landings and transshipments, landing and transshipment declarations and sighting reports. For that reason formats for these must be set out in accordance with Articles 6(1), 8(3) and 49(1) of Regulation (EC) No 1005/2008.
4. Article 9(1) and Article 17(3) of Regulation (EC) No 1005/2008 provide that Member States shall carry out port inspections of at least 5% of landing and transshipment operations by third country fishing vessels as well as verifications deemed necessary to ensure that the provisions of the Regulation are correctly applied, in accordance with benchmarks determined on the basis of risk management and on the basis of national or Community risk management

criteria. It is appropriate to lay down common risk management criteria for checking, inspection and verification activities in order to allow timely risk analyses and global assessments of relevant control information. The common criteria aim at ensuring a harmonised approach to inspection and verification in all Member States and to establish a level playing field for all operators.

5. Article 52 of Regulation (EC) No 1005/2008 provides that measures necessary for implementing the provisions of that Regulation are to be adopted in accordance with the Committee procedure. Given the fact that the Community should take account of possible capacity constraints for the proper implementation of the certification scheme, it is deemed necessary to adapt the scheme for some fishery products obtained by small fishing vessels, introducing the possibility of a simplified catch certificate. In the absence of a general definition of small scale fisheries certain specific criteria should be laid down under which the validation of a simplified catch certificate may be requested by the exporter. These criteria should take account in the first instance of the limited capacity of the fishing vessels concerned, in relation to which the obligation to apply the standard catch certification scheme would constitute a disproportionate burden.
6. Article 13(1) of Regulation (EC) No 1005/2008 provides for the recognition of catch documentation schemes agreed and in force in the framework of regional fisheries management organisations (hereinafter referred to as RFMO) in so far as they comply with the requirements of the Regulation. Some of these schemes can be recognised as complying with the requirements of Regulation (EC) No 1005/2008, while others are subject to additional conditions.
7. Economic operators who fulfil the conditions for obtaining the status of approved economic operator should be able to benefit from a simplified procedure when importing fishery products into the territory of the Community. It is necessary to establish common conditions in all Member States for the granting, amendment or withdrawal of approved economic operators' certificates, or for suspension or revocation of the status of approved economic operator, and rules on the application for and issuing of approved economic operators' certificates.
8. Article 12(4) of Regulation (EC) No 1005/2008 provides for an administrative cooperation between the Commission and third countries in areas pertaining

(1) OJ L 286, 29.10.2008, p. 1.

* Disclaimer: Care has been taken to reproduce the Commission Regulation. However, in case of any confusion please refer the official gazette.

to the implementation of the catch certification provisions. Within the framework of Article 20(4) of Regulation (EC) No 1005/2008, the catch certificate may be established, validated or submitted by electronic means or may be replaced by electronic traceability systems ensuring the same level of control by authorities, in agreement with flag States. These administrative arrangements with flag States shall be regularly updated and Member States and the public shall be informed in due time.

9. According to Article 51(2) of Regulation (EC) No 1005/2008 a system shall be established for mutual assistance between the Member States, with third countries and the Commission. Such administrative cooperation is essential to ensure that the Community catch certification scheme can be applied properly and that IUU fishing is properly investigated and sanctioned. Rules should therefore be drawn up for a systematic exchange of information either on request or spontaneously, and for the possibility to request enforcement measures and administrative notification by another Member State. Practical procedures should be laid down for exchanging information and requesting assistance. However, these provisions are not such as to affect the application in the Member States of rules on judicial cooperation in criminal cases.
10. The protection of individuals with regard to the processing of personal data by the Member States is governed by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁽¹⁾. The protection of individuals with regard to the processing of personal data by the Commission is governed by Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁽²⁾, in particular as regards to the requirements of confidentiality and security of processing, the transfer of personal data from the national systems of Member States to the Commission, the lawfulness of processing, and the rights of data subjects to information, access to and rectification of their personal data.
11. Annex I of Regulation (EC) No 1005/2008, which lists the products excluded from the definition of 'fishery products', may be reviewed annually in accordance with Article 12(5), on the basis of information gathered under Chapters II, III, IV, V, VIII, X and XII. Hence, on the basis of the information

gathered under the cooperation provided for in Article 20(4), Annex I shall be amended accordingly.

12. The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

TITLE I

INSPECTIONS OF THIRD COUNTRY FISHING VESSELS IN MEMBER STATES PORTS

CHAPTER I

Conditions for access to port by third country fishing vessels

Article 1

Prior notification

By way of derogation from Article 6(1) of Regulation (EC) No 1005/2008, vessels landing the types of fishery products set out in Annex I to this Regulation shall be subject to a prior notification period of 4 hours.

Article 2

Prior notification form

1. The form for prior notification referred to in Article 6(1) of Regulation (EC) No 1005/2008 is set out in Annex IIA to this Regulation.
2. Where all catches are accompanied by a validated catch certificate, the simplified prior notification form set out in Annex IIB may be used.

Article 3

Procedures and forms for pre-landing and pre-transshipment declarations

1. The form of the pre-landing declaration referred to in Article 8(1) of Regulation (EC) No 1005/2008 shall be as set out in Annex IIIA to this Regulation.
2. The form of the pre-transshipment declaration referred to in Article 8(1) of Regulation (EC) No 1005/2008 shall be as set out in Annex IIIB to this Regulation.
3. A third country fishing vessel may submit the pre-landing or pre-transshipment declaration in electronic format if the Member State whose designated ports of landing and transshipment facilities it intends to use and the flag State of the vessel have agreed to electronic exchange of data.
4. Unless otherwise provided for in the agreement referred to in paragraph 3, a third country fishing vessel shall submit the pre-landing or pre-transshipment declaration either in:
 - (a) the official language of the Member State of landing or transshipment; or
 - (b) English if accepted by the Member State of landing or transshipment.

(1) OJ L 281, 23.11.1995, p. 31.

(2) OJ L 8, 12.1.2001, p. 1.

5. The pre-landing or pre-transshipment declaration shall be submitted at least 4 hours before the intended landing or transshipment.

CHAPTER II

Port inspections

Article 4

Benchmarks for port inspections

The benchmarks for port inspections as referred to in Article 9(1) of Regulation (EC) No 1005/2008 shall consist of the following criteria:

- (a) the species concerned are subject to a management or recovery plan;
- (b) the fishing vessel is suspected of not implementing applicable provisions on VMS according to Chapter IV of Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems⁽¹⁾;
- (c) the fishing vessel has not been controlled at port in the port Member State in the last 3 months;
- (d) the fishing vessel has not been controlled by the port Member State in the last 6 months;
- (e) the fishing vessel is not on the list of establishments from which imports of specified products of animal origin are permitted, as set out in Article 12 of Regulation (EC) No 854/2004 of the European Parliament and of the Council⁽²⁾;
- (f) importation, exportation or trade in fishery products obtained from species of high commercial value;
- (g) introduction of new kinds of fishery products or discovery of new trade patterns;
- (h) inconsistencies between the trade patterns and the known fishing activities of a flag State in particular in respect of species, volumes or characteristics of its fishing fleet;
- (i) inconsistencies between the trade patterns and the known fishing-related activities of a third country in particular in respect of the characteristics of its processing industry or its trade in fishery products;
- (j) trade pattern not justified in terms of economic criteria;
- (k) involvement of a newly established operator;
- (l) significant and sudden increase in trade volume for a certain species;
- (m) submission of copies of catch certificates accompanying processing statements according to Annex IV of Regulation (EC) No 1005/2008, for instance when the catch has been split during production;

(1) OJ L 333, 20.12.2003, p. 17.

(2) OJ L 226, 25.6.2004, p. 83.

- (n) prior notification, required under Article 6 of Regulation (EC) No 1005/2008, not transmitted at the proper time or information incomplete;
- (o) inconsistencies between catch data declared by the operator and other information available to the competent authority;
- (p) vessel or vessel owner suspected of being or having been involved in IUU fishing activities;
- (q) vessel having recently changed name, flag or registration number;
- (r) flag State not notified according to Article 20 of Regulation (EC) No 1005/2008 or information available on possible irregularities in the validation of catch certificates by a given flag State (e.g. stamps or validation seal from a competent authority lost, stolen or forged);
- (s) presumed deficiencies in the control system of a flag State;
- (t) operators concerned who have already been involved in illegal activities constituting a potential risk in respect of IUU fishing.

Article 5

Reporting on the application of benchmarks

1. Member States shall report on the application of benchmarks referred to in Article 4 in their report to be transmitted to the Commission every two years according to Article 55(1) of Regulation (EC) No 1005/2008.
2. On the basis of those reports and its own observations, the Commission shall undertake an evaluation and possible adjustment of the benchmarks.

TITLE II

CATCH CERTIFICATION SCHEME FOR IMPORTATION AND EXPORTATION OF FISHERY PRODUCTS

CHAPTER I

Catch certificates

Article 6

Simplified catch certificate

1. This Article shall apply to third country fishing vessels:
 - (a) with an overall length of less than 12 metres without towed gear; or
 - (b) with an overall length of less than 8 metres with towed gear; or
 - (c) without a superstructure; or
 - (d) of less than measured 20 GT.
2. Catches from third country fishing vessels referred to in paragraph 1 which are only landed in the flag State of those vessels and which together constitute one

consignment may be accompanied by a simplified catch certificate instead of the catch certificate referred to in Article 12 of Regulation (EC) No 1005/2008. The simplified catch certificate shall contain all the information specified in the specimen shown in Annex IV to this Regulation and shall be validated by a public authority of the flag State with the necessary powers to attest the accuracy of the information.

3. The validation of the simplified catch certificate shall be requested by the exporter of the consignment upon submission to the public authority of all the information specified in the specimen shown in Annex IV.

Article 7

Recognised catch documentation schemes in RFMOs

1. The catch documentation schemes adopted by regional fisheries management organisations listed in Annex V, Part I, to this Regulation, shall be recognised for the purposes of Article 13(1) of Regulation (EC) No 1005/2008 as complying with the requirements of that Regulation without additional conditions.

2. The catch documentation schemes adopted by regional fisheries management organisations listed in Annex V, Part II, of this Regulation, shall be recognised, for the purposes of Article 13(1) of Regulation (EC) No 1005/2008, as complying with the requirements of that Regulation subject to additional conditions.

Article 8

Deadline for the submission of catch certificates

By way of derogation from Article 16(1) of Regulation (EC) No 1005/2008, the submission of catch certificates for imports of fishery products in consignments by means of transportation referred to in Annex VI to this Regulation shall be subject to the shorter deadlines set out in that Annex.

CHAPTER II

Approved economic operators

Section 1

Conditions for granting the approved economic operator certificate

Article 9

General provisions

Economic operators may, following an application, be granted a certificate of approved economic operator (hereinafter referred to as APEO certificate) for the purposes of Article 16 of Regulation (EC) No 1005/2008 only if they:

(a) hold an authorised economic operator certificate (hereinafter referred to as AEO certificate) in accordance with Commission Regulation (EEC) No 2454/93⁽¹⁾ (hereinafter referred to as the Implementing Rules of the Community Customs Code); and

(b) fulfil the criteria laid down in Article 16(3)(a) to (g) of Regulation (EC) No 1005/2008 and detailed in Articles 10 to 13 of this Regulation.

Article 10

Sufficient import

1. The sufficient number and volume of import operations referred to in Article 16(3)(b) of Regulation (EC) No 1005/2008 must be achieved in the Member State of establishment.

2. Each Member State shall determine the minimum threshold for number and volume of import operations and inform the Commission thereof.

Article 11

Record of compliance

1. The record of compliance with the requirements of conservation and management measures referred to in Article 16(3)(c) of Regulation (EC) No 1005/2008 shall be considered as appropriate if, over the last three years preceding the submission of the application, the applicant:

- (a) has not committed a serious infringement of the rules of the common fisheries policy;
- (b) has not committed repeated infringements of the rules of the common fisheries policy;
- (c) has not directly or indirectly participated in or supported activities of vessels or operators engaged in IUU fishing or which are currently subject to investigation in that respect; and
- (d) has not directly or indirectly participated in or supported activities of vessels included in IUU vessel lists adopted by a RFMO.

2. Notwithstanding paragraph 1, the record of compliance with the requirements of conservation and management measures may be considered as appropriate if the competent Member State authority considers an infringement committed by the applicant:

- (a) not to be serious; and
- (b) of negligible quantitative importance in relation to the number or size of the import-related operations carried out by the applicant.

Article 12

Management of records

The system of managing catch certificates and, where appropriate, processing records, as referred to in Article 16(3)(d) of Regulation (EC) No 1005/2008, shall be considered satisfactory if it ensures:

- (a) the handling of catch certificates connected to the trade in fisheries products;

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

- (b) the archiving of the applicant's records and information; and
- (c) the protection against the loss of information.

Article 13

Facilities

The applicant's facilities, as referred to in Article 16(3)(e) of Regulation (EC) No 1005/2008, shall be considered appropriate if they:

- (a) prevent unauthorised access to storage areas, shipping areas, loading docks and cargo areas;
- (b) ensure the handling of fishery products including protection against tampering with cargo units;
- (c) ensure the handling of import and/or export licenses connected to prohibitions and restrictions and to distinguish fishery products subject to catch certificates from fishery products not subject to catch certificates.

Section 2

Application for an APEO certificate

Article 14

Submission of the application

1. The application for an APEO certificate shall be submitted to the competent Member State authority on whose territory the importer is established in accordance with the specimen set out in Annex VII.
2. The application shall include records and documentation enabling the competent Member State authority to verify and monitor the compliance with the criteria laid down in Articles 9 to 13 of this Regulation, including a copy of the AEO certificate issued in accordance with the Implementing Rules of the Community Customs Code. Applicants shall submit necessary data to the competent Member State authority.
3. If a part of the relevant records and documentation is kept in another Member State, the consultation procedure referred to in Article 17 shall apply.
4. Where the competent Member State authority establishes that the application does not contain all the information required, it shall, within 30 calendar days of receipt of the application, require the applicant to supply the relevant information.
5. When the authority has received all the information necessary it shall inform the applicant that the application has been deemed complete, specifying the date from which the time limits laid down in Article 18(2) of this Regulation will run.
6. An operator who has been granted the status of approved economic operator in one Member State shall when applying for the same status in a subsequent Member

State, attach a copy of the APEO certificate granted by the first Member State.

Article 15

Inadmissibility of applications

The application referred to in Article 14 shall be inadmissible in the following cases:

- (a) where the application does not comply with Article 14; or
- (b) where the application is submitted within three years after the withdrawal of the APEO certificate referred to in points (a), (b) and (d) of Article 27(1).

Section 3

Procedure for issuing APEO certificates

Article 16

Examination of application

1. The issuing Member State authority shall examine whether the criteria laid down in Articles 9 to 13 are met. The examination and its results shall be documented by the competent Member State authority.
2. Where the applicant holds an 'AEO certificate — Security and safety' or an 'AEO certificate — Customs simplification/ security and safety', as referred to in Article 14a of the Implementing Rules of the Community Customs Code, the criteria set out in Article 13 need not be examined.
3. In cases where the applicant has previously been granted the status of approved economic operator in another Member State, the issuing authority shall examine whether the following criteria are met:
 - (a) the criteria set out in Articles 12 and 13;
 - (b) optionally, the criteria set out in Articles 10 and 11.
4. The issuing authority may accept conclusions provided by an expert in the relevant fields referred to in Articles 12 and 13 in respect of the criteria referred to in those Articles. The expert shall not in any way be related to the applicant.

Article 17

Consultation of other Member States

1. The issuing authority shall consult the competent authorities of other Member States if the examination of the compliance with one or more of the criteria laid down in Articles 9 to 13 cannot be performed by it due either to a lack of information or to the impossibility of checking it. The consulted competent authorities of the Member States shall respond within 60 calendar days, starting from the date of the communication of the request by the issuing Member State authority.
2. If the consulted competent authority fails to respond within the deadline of 60 calendar days referred to in

paragraph 1, the issuing authority may assume that the applicant meets the criteria for which the consultation took place.

Article 18

Issuing of an APEO certificate

1. The issuing authority shall issue the APEO certificate in accordance with the specimen set out in Annex VIII.
2. The APEO certificate shall be issued within 90 calendar days starting from the date of receipt of all the information necessary in accordance with Article 14.
3. The period of 90 calendar days provided for in paragraph 2 may be extended by one further period of 30 calendar days where the competent authority is unable to meet the deadline. In such cases, the competent Member State authority shall, before the expiry of the period referred to in paragraph 2, inform the applicant of the reasons for the extension.
4. The period provided for in paragraph 2 may also be extended if, in the course of the examination of the compliance with the criteria laid down in Articles 9 to 13, the applicant carries out adjustments in order to satisfy those criteria and communicates them to the competent authority.

Article 19

Rejection of an application

1. Where the result of the examination carried out in accordance with Articles 16 and 17 is likely to lead to the rejection of the application, the issuing authority shall communicate the findings to the applicant and provide him with the opportunity to respond within 30 calendar days, before rejecting the application. The period laid down in paragraph 2 shall be suspended accordingly.
2. If the application is rejected, the competent authority shall inform the applicant of the reasons on which the decision is based. The decision to reject an application shall be notified to the applicant within the time limits laid down in paragraphs 2, 3 and 4 of Article 18 and paragraph 1 of this Article.
3. The issuing authority shall inform the Commission, as soon as possible, that an application has been rejected. The Commission shall make that information available to the competent authorities of the other Member States by electronic means.

Section 4

Status of approved economic operator

Article 20

Verifications

1. When the holder of an APEO certificate has advised the competent Member State authority of the arrival of fishery products, that authority may, before the arrival of the consignment into that Member State, notify the approved

economic operator when, as a result of a risk analysis in accordance with Article 17 of Regulation (EC) No 1005/2008, the consignment has been selected for further verification. That notice shall only be provided where it does not jeopardise the verification to be carried out.

2. The holder of an APEO certificate shall be subject to fewer physical and document-based verifications than other importers, unless the competent Member State authority decides otherwise in order to take into account a specific risk, or control obligations set out in other Community legislation.

3. Where, following a risk analysis, the competent Member State authority selects for further examination a consignment accompanied by a catch certificate lodged by an approved economic operator, it shall carry out the necessary verifications as a matter of priority. If the approved economic operator so requests, and subject to agreement with the competent Member State authority concerned, those verifications may be carried out at a place which is different from the place of the office of the competent Member State authority.

Section 5

Legal effects of APEO certificates

Article 21

General provisions

1. The APEO certificate shall take effect on the tenth working day after the date of its issue. Its period of validity shall not be limited.
2. The APEO certificate shall only be valid in the Member State of the issuing authority.
3. The competent authorities shall monitor compliance with the criteria laid down in Articles 9 to 13.
4. In the case of an APEO certificate issued to an applicant established for less than three years, close monitoring shall take place during the first year after issue.
5. A reassessment of the compliance with the criteria referred to in Articles 9 to 13 shall be carried out by the issuing authority in the following cases:
 - (a) major changes to the relevant Community legislation;
 - (b) reasonable indication that the relevant criteria are no longer met by the approved economic operator.
6. Article 16(4) shall apply to the reassessment.
7. The issuing authority shall inform the Commission, as soon as possible, of the results of the reassessment. The Commission shall make that information available to the competent authorities of all Member States, by electronic means.

Article 22

Suspension of the status of an approved economic operator

1. The status of approved economic operator shall be suspended by the issuing authority in the following cases:
 - (a) where non-compliance with the criteria laid down in Articles 9 to 13 has been detected;
 - (b) where the competent Member State authorities have sufficient reason to believe that an act has been perpetrated by the approved economic operator, which gives rise to legal proceedings and is linked to an infringement of the rules of the common fisheries policy or of Regulation (EC) No 1005/2008;
 - (c) where the status of the authorised economic operator has been suspended in accordance with the Implementing Rules of the Community Customs Code;
 - (d) where the suspension is requested by the approved economic operator which is temporarily unable to meet any of the criteria laid down in Articles 9 to 13.
2. Before taking a decision in accordance with paragraph 1(a), (b) and (c), the competent Member State authorities shall communicate their findings to the economic operator concerned. The operators shall be entitled to express its point of view within 30 calendar days starting from the date of receiving the communication.
3. However, where the nature or the level of the threat to the conservation measures for a certain stock or stocks so require, suspension shall take place immediately. The suspending authority shall immediately inform the Commission in order to permit other Member States to take appropriate action.
4. The suspension referred to in paragraph 1 shall take effect from the day following its notification to the approved economic operator. The suspension shall however not affect any import procedure already started before the date of suspension and not yet completed.

Article 23

Suspension in the case of non-compliance with relevant criteria

1. In the case referred to in point (a) of Article 22(1), if the approved economic operator does not regularise the situation within the period referred to in paragraph 2 of that Article, the status of approved economic operator shall be suspended for a period of 30 calendar days. The competent Member State authority shall, without delay, notify the economic operator of the suspension and the competent authorities of the other Member States.
2. Where the economic operator concerned has been unable to regularise the situation within the suspension period of 30 calendar days referred to in paragraph 1 but can provide evidence that the conditions can be met if the

suspension period is extended, the issuing authority shall suspend the status of approved economic operator for a further 30 calendar days. The competent authorities of the other Member States shall be informed of the extension.

3. When the economic operator concerned has, within the time limit set out in paragraphs 1 or 2, taken the necessary measures to comply with the criteria laid down in Articles 9 to 13, the issuing authority shall withdraw the suspension and inform the economic operator concerned and the Commission. The suspension may be withdrawn before the expiry of the time limit laid down in paragraphs 1 or 2.

Article 24

Suspension in case of legal proceedings

1. In the case referred to in point (b) of Article 22(1), the issuing authority shall suspend the status of the approved economic operator for the duration of the proceedings. It shall notify the approved economic operator thereof. Notification shall also be sent to the competent authorities of the other Member States.
2. The competent Member State authority may however decide not to suspend the status of approved economic operator if it considers the infringement to be of negligible quantitative importance in relation to the number or volume of the import-related operations carried out by that operator.

Article 25

Suspension related to the status of authorised economic operator

In the case referred to in point (c) of Article 22(1), the issuing authority shall suspend the status of the approved economic operator until the suspension of the status of authorised economic operator has been withdrawn. It shall notify the approved economic operator thereof. It shall also notify the competent authorities of the other Member States.

Article 26

Suspension upon request

1. In the case referred to in Article 22(1)(d) the approved economic operator shall notify the issuing authority of its temporary inability to meet the criteria laid down in Articles 9 to 13, specifying the date when the criteria will be met again. The approved economic shall also notify the issuing authority of any planned measures and their timescale.
2. The issuing authority shall send the notification to the Commission and the competent authorities of the other Member States.
3. If the approved economic operator fails to regularise the situation within the period set out in its notification, the issuing authority may grant a reasonable extension, provided that the approved economic operator has acted in good faith. The extension shall be notified to the Commission and the competent authorities of the other Member States.

Article 27

Withdrawal of the APEO certificate

1. The APEO certificate shall be withdrawn in the following cases:

- (a) where the approved economic operator fails to take the necessary measures to comply with the criteria laid down in Articles 9 to 13 in accordance with Article 23(3);
- (b) where it has been established that a serious infringement or repeated infringements related to the rules of the common fisheries policy or of Regulation (EC) No 1005/2008 have been committed by the approved economic operator and there is no further right of appeal;
- (c) where the approved economic operator fails to take the necessary measures to comply with the criteria laid down in Articles 9 to 13 in accordance with Article 26;
- (d) where the status of authorised economic operator, granted in accordance with the Implementing Rules of the Community Customs Code, has been withdrawn;
- (e) upon request of the approved economic operator.

2. In the case referred to in point (b) of paragraph 1, the competent authority may decide not to withdraw the APEO certificate if the infringements are of negligible quantitative importance in relation to the number or size of the import-related operations carried out by that operator.

3. The withdrawal shall take effect from the day following its notification to the approved economic operator.

4. The issuing authority shall immediately inform the Commission of the withdrawal of an APEO certificate.

Section 6

Information exchange

Article 28

Information requests

1. The approved economic operator shall inform the issuing authority of all factors arising after the certificate is granted which may influence its continuation.

2. All relevant information at the disposal of the issuing authority concerning economic operators approved by it shall *upon request* be made available to the Commission and the competent authorities of the other Member States where the approved economic operators carry out import-related activities.

Article 29

Sharing of information on approved economic operators

1. The Commission and the competent authorities in all Member States shall store for a period of three years or

longer in accordance with national rules, and have access to the following information:

- (a) the electronically transmitted data of the applications;
- (b) the APEO certificates, and where applicable, their amendment or withdrawal of those certificates, or the suspension of the status of approved economic operator.

2. The IUU fishing information system referred to in Article 51 of Regulation (EC) No 1005/2008 may be used for the information and communication process between the competent authorities and for information of the Commission and of the economic operators as provided for in this chapter.

3. The list of approved economic operators may be disclosed by the Commission to the public via the Internet with prior agreement of the approved economic operators concerned. The list shall be kept up to date.

Article 30

Reporting obligations and evaluation

1. Member States shall include information on the application of the approved economic operator scheme as laid down in this chapter in their report to be transmitted to the Commission every two years according to Article 55(1) of Regulation (EC) No 1005/2008.

2. On the basis of those reports and its own observations, the Commission shall undertake an evaluation and possible adjustment of the approved economic operator scheme.

CHAPTER III

Verifications related to catch certificates

Article 31

Community criteria for verifications

Verifications intended to ensure that the provisions of Regulation (EC) No 1005/2008 are complied with, as referred to in Article 17 of that Regulation, shall be focused towards risks identified on the basis of the following Community criteria:

- (a) importation, exportation or trade in fishery products obtained from species of high commercial value;
- (b) introduction of new kinds of fishery products or discovery of new trade patterns;
- (c) inconsistencies between the trade patterns and the known fishing activities of a flag State in particular in respect of species, volumes or characteristics of its fishing fleet;
- (d) inconsistencies between the trade patterns and the known fishing-related activities of a third country in particular in respect of the characteristics of its processing industry or its trade in fishery products;

- (e) trade pattern not justified in terms of economic criteria;
- (f) involvement of a newly established operator;
- (g) significant and sudden increase in trade volume for a certain species;
- (h) submission of copies of catch certificates accompanying processing statements according to Annex IV of Regulation (EC) No 1005/2008, for instance when the catch has been split during production;
- (i) prior notification, required under Article 6 of Regulation (EC) No 1005/2008, not transmitted at the proper time or information incomplete;
- (j) inconsistencies between catch data declared by the operator and other information available to the competent authority;
- (k) vessel or vessel owner suspected of being or having been involved in IUU fishing activities;
- (l) vessel having recently changed name, flag or registration number;
- (m) flag State not notified according to Article 20 of Regulation (EC) No 1005/2008 or information available on possible irregularities in the validation of catch certificates by a given flag State (e.g. stamps or validation seal from a competent authority lost, stolen or forged);
- (n) presumed deficiencies in the control system of a flag State;
- (o) operators concerned who have already been involved in illegal activities constituting a potential risk in respect of IUU fishing.

Article 32

Reporting obligations and evaluation

1. Member States shall include information on the application of the Community criteria referred to in Article 31 in their report to be transmitted to the Commission every two years according to Article 55(1) of Regulation (EC) No 1005/2008.
2. On the basis of those reports and its own observations, the Commission shall undertake an evaluation and possible adjustment of the Community criteria.

CHAPTER IV

Cooperation with third countries

Article 33

Administrative cooperation with third countries concerning catch certificates

1. The administrative arrangements in which the catch certificate is established, validated or submitted by electronic means or is replaced by electronic traceability

systems ensuring the same level of control by authorities, established within the framework of the administrative cooperation set out in Article 20(4) of Regulation (EC) No 1005/2008, are listed in Annex IX to this Regulation.

2. The Commission shall within 15 working days after establishment of a new administrative arrangement pertaining to the implementation of the catch certification provisions of Regulation (EC) No 1005/2008, inform the competent authorities of Member States thereof, place the information on its website as soon as possible and update Annex IX to this Regulation.

TITLE III

SIGHTINGS

Article 34

Form for submission of information regarding sighted fishing vessels

1. The form for submission of information regarding sighted fishing vessels referred to in Article 49(1) of Regulation (EC) No 1005/2008 is set out in Annex XA to this Regulation.
2. The instructions for filling in the form referred to in paragraph 1 are set out in Annex XB to this Regulation.

TITLE IV

MUTUAL ASSISTANCE

CHAPTER I

General provisions

Article 35

Scope

1. This Title lays down the conditions under which the Member States shall administratively cooperate with each other, third countries, the Commission and the body designated by it in order to ensure the effective application of Regulation (EC) No 1005/2008 and this Regulation.
2. This Title shall not bind Member States to grant each other assistance where that would be likely to be injurious to their national legal system, public policy, security or other fundamental interests. Before denying a request for assistance, the requested Member State shall consult the applicant Member State to determine whether assistance may be given in part, subject to specific terms and conditions. Where a request for assistance cannot be complied with the applicant Member State and the Commission shall promptly be notified of that fact and reasons shall be stated.
3. This Title shall not affect the application in the Member States of rules on criminal procedure and mutual assistance in criminal matters, including those on secrecy of judicial inquiries.

Article 36

Protection of personal data

1. This Regulation leaves intact and in no way affects the level of protection of individuals with regard to the processing of personal data under the provisions of Community and national law, and in particular does not alter either the obligations of Member States relating to their processing of personal data under Directive 95/46/EC or the obligations of the Community institutions and bodies relating to their processing of personal data under Regulation (EC) No 45/2001 when fulfilling their responsibilities. The Member States and the Commission shall ensure that all applicable provisions laid down in Regulation (EC) No 45/2001 and Directive 95/46/EC are respected.

2. The rights of persons with regard to their registration data processed in national systems shall be exercised in accordance with the law of the Member State which stored their personal data, and in particular the provisions implementing Directive 95/46/EC, and, with regard to their registration data processed in Community systems, shall be exercised in accordance with Regulation (EC) No 45/2001.

Article 37

Use of information and protection of professional and commercial secrecy

1. The applicant Member State shall use information communicated according to this Title solely for the purposes of implementing Regulation (EC) No 1005/2008 and at all times in accordance with Directive 95/46/EC. The use of such information for other purposes shall be subject to prior written consultation of the requested Member State which provided the information. Such use shall then be subject to any conditions established by the requested Member State for non-disclosure of information in accordance with Directive 95/46/EC. The use of personal information data for other purposes shall be in compliance with the conditions laid down in Directive 95/46/EC.

2. The applicant Member State shall consider specific demands related to disclosure of the information such as the safety and privacy of persons identified or identifiable by the information.

3. The information shall benefit from the same protection accorded to similar data by the national legislation of the Member State receiving them and, for a Community institution receiving them, by the corresponding provisions applicable to this institution. It may be invoked as evidence in administrative or criminal proceedings by the Member State receiving the information, in accordance with the law of that Member State.

4. Information communicated in any form to persons working for national public authorities and the Commission

shall be covered by duties of confidentiality and professional secrecy if their disclosure would undermine

- (a) the protection of the privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data;
- (b) the commercial interests of a natural or legal person, including intellectual property;
- (c) court proceedings and legal advice; or
- (d) the purpose of inspections or investigations.

5. Paragraph 4 shall not apply where the disclosure is necessary to bring about the cessation of IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 and the authority communicating the information consents to its disclosure.

Article 38

Costs

Member States shall bear their own costs of executing a request for assistance and shall waive all claims for the reimbursement of expenses incurred in applying this Title.

Article 39

Single authority

1. Each Member State shall designate a single liaison office responsible for the application of this Title.

2. Each Member State shall communicate to the Commission and the other Member States the identity of the single liaison office and keep that information up to date.

3. The Commission shall publish and update the list of single liaison offices in the *Official Journal of the European Union*.

Article 40

Follow-up measures

1. Where national authorities decide, in response to a request for assistance based on this Title or following a spontaneous exchange of information, to take measures which may be implemented only with the authorisation or at the demand of a judicial authority, they shall communicate to the Member State concerned and the Commission any information on those measures which is related to IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008, or to infringements of this Regulation.

2. Any such communication must have the prior authorisation of the judicial authority if such authorisation is required by national law.

CHAPTER II

Information without prior request

Article 41

Information without prior request

1. When a Member State becomes aware of any potential IUU fishing activity or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 or reasonably suspects that such an activity or infringement may occur, it shall notify the other Member States concerned and the Commission, without delay. That notification shall supply all necessary information and shall be made via the single authority as referred to in Article 39.
2. When a Member State takes enforcement measures in relation to an IUU fishing activity or infringement referred to in paragraph 1, it shall notify the other Member States concerned and the Commission via the single authority as referred to in Article 39.
3. All notifications according to this Article shall be made in writing.

CHAPTER III

Requests for assistance

Article 42

Definitions

For the purposes of this Title 'request for assistance' means a request addressed by one Member State to another Member State for:

- (a) information;
- (b) enforcement measures; or
- (c) administrative notification.

Article 43

General requirements

1. The applicant Member State shall ensure that all requests for assistance contain sufficient information to enable a requested Member State to fulfil the request, including any necessary evidence obtainable in the territory of the applicant Member State.
2. Requests for assistance shall be limited to substantiated cases where there is reasonable cause to believe that IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 have occurred and where the applicant Member State is not able to obtain the requested information or to take the requested measures by its own means.

Article 44

Transmission of requests and replies

1. Requests shall only be sent by the single authority of the applicant Member State or by the Commission to the

single authority of the requested Member State. All replies to a request shall be communicated in the same way.

2. Requests for mutual assistance and the respective replies shall be made in writing.

3. The languages used for requests and for the communication of information shall be agreed by the single authorities concerned before requests are made. If no agreement can be reached, requests shall be communicated in the official language(s) of the applicant Member State and replies in the official language(s) of the requested Member State.

Article 45

Requests for information

1. A requested Member State shall, at the request of an applicant Member State, or of the Commission, supply any relevant information required to establish whether IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 have occurred or to establish whether there is a reasonable suspicion it may occur. That information shall be supplied via the single authority as referred to in Article 39.

2. The requested Member State shall, at the request of the applicant Member State or of the Commission, carry out the appropriate administrative enquiries concerning operations which constitute, or appear to the applicant Member State to constitute, IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008. The requested Member State shall communicate the results of such administrative enquiries to the applicant Member State and to the Commission.

3. At the request of the applicant Member State, or of the Commission, the requested Member State may permit a competent official of the applicant Member State to accompany the officials of the requested Member State or of the Commission, in the course of administrative enquiries referred to in paragraph 2. In so far as national provisions on criminal proceedings restrict certain acts to officials specifically designated by national law, the officials of the applicant Member State shall not take part in such acts. In no event, shall they participate in searches of premises or the formal questioning of persons under criminal law. The officials of the applicant Member States present in the requested Member State must at all time be able to present written authority stating their identity and their official functions.

4. At the request of the applicant Member State, the requested Member State shall supply it with any document or certified true copies in its possession which relates to IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008.

5. The standard form for the exchange of information on request is set out in Annex XI.

Requests for enforcement measures

1. A requested Member State shall, based on the evidence referred to in Article 43, at the request of an applicant Member State, or of the Commission, take all necessary enforcement measures to bring about the cessation, within its territory or within maritime waters under its sovereignty or jurisdiction, of any IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 without delay.
2. The requested Member State may consult the applicant Member State and the Commission in the course of taking the enforcement measures referred to in paragraph 1.
3. The requested Member State shall report the measures taken and their effect to the applicant Member State, the other Member States concerned and the Commission, via the single authority as referred to in Article 39.

Article 47

Deadline for replies to requests for information and enforcement measures

1. The requested Member State shall provide the information referred to in Article 45(1) and Article 46 (3) as quickly as possible, but not later than 4 weeks following the date of receipt of the request. Different time limits may be agreed between the requested and the applicant Member State or the Commission.
2. Where the requested Member State is unable to respond to the request by the deadline, it shall inform the applicant Member State or the Commission in writing of the reason for its failure to do so, and indicate when it considers it will be able to respond.

Article 48

Requests for administrative notification

1. A requested Member State shall, at the request of an applicant Member State and in accordance with its national rules governing the notification of similar instruments and decisions, notify the addressee of all instruments and decisions taken in the field covered by Regulation (EC) No 1005/2008 which emanate from the administrative authorities of the applicant Member State and are to be served in the territory of the requested Member State.
2. Requests for notification shall be made using the standard form attached to this Regulation in Annex XII.
3. The requested Member State shall transmit its reply to the applicant Member State immediately after the notification via the single authority referred to in Article 39. The reply shall be made using the standard form attached to this Regulation in Annex XII.

Relations with the Commission

Article 49

Communication between the Member States and the Commission

1. Each Member State shall communicate to the Commission as soon as it is available to it any information it considers relevant concerning methods, practices or revealed tendencies used or suspected of having been used for IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008.
2. The Commission shall communicate to the Member States, as soon as it becomes available to it, any information that would help them to enforce the implementation of Regulation (EC) No 1005/2008.

Article 50

Coordination by the Commission

1. Where a Member State becomes aware of operations which constitute, or appear to constitute, IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 and which are of particular relevance at Community level, it shall communicate to the Commission as soon as possible any relevant information needed to determine the facts. The Commission shall convey that information to the other Member States concerned.
2. For the purposes of paragraph 1, operations which constitute IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 shall be deemed to be of particular relevance at Community level especially where:
 - (a) they have, or might have, connections in other Member States; or
 - (b) it appears likely to the Member State that similar operations have also been carried out in other Member States.
3. Where the Commission considers that operations which constitute IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 have taken place in one or more Member States, it shall inform the Member States concerned thereof which shall as soon as possible carry out enquiries. The Member States concerned shall, as soon as possible, communicate to the Commission the findings of those enquiries.

CHAPTER V

Relations with third countries

Article 51

Information exchange with third countries

1. When a Member State receives information relevant to ensure the effective application of Regulation (EC) No 1005/2008 and this Regulation from a third country, it shall communicate that information to the other Member States concerned via the single authority, in so far as it is permitted to do so by bilateral assistance agreements with that third country.
2. Information received under this Title may be communicated to a third country by a Member State via its single authority under a bilateral assistance agreement with that third country; That communication shall take place after consultation of the Member State that originally communicated the information and in accordance with Community legislation and national legislation regarding the protection of individuals with regard to the processing of personal data.
3. The Commission may, in the framework of fisheries agreements concluded between the Community and third countries or in the framework of Regional Fisheries Management Organisations or similar arrangements to which the Community is a Contracting Party or a non-contracting Cooperating Party, communicate relevant information concerning IUU fishing or serious infringements referred to in Article 42(1)(b) and (c) of Regulation (EC) No 1005/2008 to other parties to those agreements, organisations or arrangements, subject to the consent of the Member State that supplied the information.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 October 2009.

For the Commission

Joe BORG

Member of the Commission

CHAPTER VI

Transitional provision

Article 52

Establishment of an IUU Fishing Information System

Pending the establishment of the 'IUU Fishing Information System', as referred to in Article 51(2) of Regulation (EC) No 1005/2008, the competent authorities of the Member States shall cooperate under this title with each other and the Commission through existing information arrangements.

TITLE V

AMENDMENTS

Article 53

Amendments to Regulation (EC) No 1005/2008

Annex I of Regulation (EC) No 1005/2008, containing the list of products excluded from the definition of 'fisheries products' in Article 2(8) of that Regulation is amended as set out in Annex XIII to this Regulation.

TITLE VI

FINAL PROVISIONS

Article 54

Entry into force

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2010.

ANNEX I

Prior notification period for certain types of fishery products referred to in Article 1

Four-hour prior notification period

Landings of fresh fishery products by fishing vessels into designated Community ports.

ANNEX IIA

Form for prior notification for third country fishing vessels referred to in Article 2(1)

Please complete all relevant fields before sending the prior notice:

Vessel identification

1. Vessel name:
2. Type of vessel (catching, carrier or support):
3. Flag (country of registration):
4. Home port (ISO alpha-2 country code + name of port):
5. Registration number (external identification):
6. International radio call sign:
7. IMO/Lloyd's number (if issued):

Intended port of call

8. Name of the port (ISO alpha-2 country code + 3 letter port code (*)):
9. Purpose of the call (landing, transhipment or access to services):

Fishing authorisation

10. Fishing authorisation number and expiration date:
11. Authorisation to support fishing operations/ tranship fishery products:
12. Issuing authority:

Dates

13. Dates of the fishing trip:
14. Date and estimated time of arrival at port:

Quantities of species retained on board (or negative report if no catches)

15. Name of catching vessel(s) and catch certificate number(s) for this/these (if available)	16. Date of transshipment (if transshipment has taken place elsewhere than the port of landing)	17. Area or port of transshipment (FAO (ICES) area, FAO (ICES) division and if relevant subdivision and if relevant ICES statistical rectangle and fishing effort zone)	18. Name of the species (FAO alpha-3 code)	19. Catch area (FAO (ICES) area, FAO (ICES) division, FAO (ICES) sub division and if relevant ICES statistical rectangle and fishing effort zone)	20. Estimated total live weight on board (in kg) or number of fish if required	21. Estimated total live weight of fish to be landed/ transhipped (in kg) or number of fish if required	22. Presentation of fish and state of preservation (use letter codes (*))

23. Name and address of vessel owner:

24. Name of master of vessel/representative:

25. Signature:

26. Date:

If catching vessel fill in points 1-10, 12-14 plus 18-22

If carrier vessel fill in points 1-9, 11 and 12 plus 14-22

If support vessel fill in points 1-9, 11, 12 and 14

All must fill in points 23-26

(*) Letter codes for ports, the state of the fish and the presentation: http://ec.europa.eu/fisheries/cfp/control_enforcement/ers_en.htm

ANNEX IIB

Form for prior notification for third country fishing vessels referred to in Article 2(2)

Please complete all relevant fields before sending the prior notice:

Intended port of call

1. Name of the port (ISO alpha-2 country code + 3 letter port code (*)):
2. Purpose of the call (landing, transshipment or access to services):
3. Date and estimated time of arrival at port:

Quantities of species retained on board

4. Name of catching vessel(s) and catch certificate number(s) for this/these	5. Date of transshipment (if transshipment has taken place elsewhere than the port of landing)	6. Area or port of transshipment (FAO (ICES) area, FAO (ICES) division, FAO (ICES) sub-division and if relevant ICES statistical rectangle and fishing effort zone)	7. Name of the species (FAO alpha-3 code)	8. Estimated total live weight on board (in kg) or number of fish if required	9. Estimated total live weight of fish to be landed/ transhipped (in kg) or number of fish if required	10. Presentation of fish and state of preservation (use letter codes (*))

11. Name and address of vessel owner:
12. Name of master of vessel/representative:
13. Signature
14. Date

If catching vessel fill in point 1-3, 7 plus 9 and 10

If carrier vessel fill in points 1-10

If support vessel fill in points 1-3

All must fill in points 11-14

(*): Letter codes for ports, the state of the fish and the presentation: http://ec.europa.eu/fisheries/cfp/control_enforcement/ers_en.htm

ANNEX IIIA

Form for pre-landing declarations referred to in Article 3(1)

Vessel identification

1. Vessel name:
2. Type of vessel (catching or carrier):
3. Flag (country of registration):
4. Home port (ISO alpha-2 country code + name of port):
5. Registration number (external identification):
6. International radio call sign:
7. IMO/Lloyd's number (if issued):

Contact

8. Name of the master/representative:
9. Address of master/representative:

Landing information

12. Date and estimated time of landing:
13. Intended port of landing (ISO alpha-2 country + 3 letter port code (*))
14. Sent by master/representative:

Departure information

10. Dates and time of departure:
11. Port of departure (ISO alpha-2 country code + name of port):

Quantities of species retained on board

15. Catch certificate number(s), date(s) and flag State(s)	16. Date of transhipment (if transhipment has taken place elsewhere than the port of landing) and name of catching vessel(s)	17. Area of port of transhipment (FAO (ICES) area, FAO (ICES) division, FAO (ICES) sub division and if relevant ICES statistical rectangle)	18. Name of the species (FAO alpha-3 code)	19. Catch area (FAO (ICES) area, FAO (ICES) division, FAO (ICES) sub division and if relevant ICES statistical rectangle and fishing effort zone)	20. Estimated total live weight on board (in kg) or number of fish if required	21. Estimated total live weight of fish to be landed (in kg) or number of fish if required	22. Presentation of fish and state of preservation (use letter codes (*))	23. If applicable conversion factor applied to fishery product by flag State	24. If processed fishery products, processing's type of packaging (3 letter code CRT=cartons, BOX=boxes, BGS=bags and BLC=blocks)	25. If processed fishery products number of packing units (cartons, boxes, bags, containers, blocks etc.)	26. If processed fishery products, average weight per unit of packing (in kg)

27. Name and address of vessel owner:
28. Name of master of vessel/representative:
29. Signature:
30. Date:

If catching vessel fill in points 1-15 plus 18-30
If carrier vessel fill in all points

Form for pre-transhipment declarations referred to in Article 3(2)

(required from both donor and receiving vessel)

Vessel identification

1. Vessel name:
2. Type of vessel (catching or carrier):
3. Flag (country of registration):
4. Home port (ISO alpha-2 country code + name of port):
5. Registration number (external identification):
6. International radio call sign:
7. IMO/Lloyd's number (if issued):

Contact

8. Name of the master/representative:
 9. Address of master/representative:
- Transhipment information**
12. Date and estimated time of transhipment:
 13. Intended port of transhipment (ISO alpha-2 country code + 3 letter port code (*)):
 14. Sent by master/representative:

Departure information

10. Dates and time of departure:
11. Port of departure (ISO alpha-2 country code + name of port):

Information on the other vessel in the transhipment operation:

15. International radio call sign:
16. Registration number (external identification):
17. Flag (country of registration):

Quantities of species retained on board

18. Catch certificate number(s), date(s) and flag State(s)	19. Date of transhipment (if transhipment has taken place elsewhere than the port of landing and name of catching vessel(s))	20. Area of port of transhipment (FAO (ICES) area, FAO (ICES) division, FAO (ICES) sub division, FAO (ICES) sub division and if relevant ICES statistical rectangle)	21. Name of the species (FAO alpha-3 code)	22. Catch area (FAO (ICES) area, FAO (ICES) division, FAO (ICES) sub division and if relevant ICES statistical rectangle and fishing effort zone)	23. Estimated total live weight on board (in kg) or number of fish if required	24. Estimated total live weight of fish to be landed (in kg) or number of fish if required	25. Presentation of fish and state of preservation (use letter codes (*))	26. If applicable conversion factor applied to fishery product by flag State	27. If processed fishery products, processing type of packaging (3 letter code CRT=cartons, BOX=boxes, BGS=bags and BLC=blocks)	28. If processed fishery products number of packing units (cartons, boxes, bags, containers, blocks etc.)	29. If processed fishery products, average weight per unit of packing (in kg)

27. Name and address of vessel owner:
28. Name of master of vessel/representative:
29. Signature:
30. Date:

If catching vessel fill in points 1-15 plus 18-30

If carrier vessel fill in all points

(*) Letter codes for ports, the state of the fish and the presentation: http://ec.europa.eu/fisheries/cfp/control_enforcement/ers_en.htm

ANNEX IV

EUROPEAN COMMUNITY CATCH CERTIFICATE

Simplified form for fishery products fulfilling the requirements in Article 6 of this Regulation

(I) EUROPEAN COMMUNITY CATCH CERTIFICATE – Simplified form for fishery products fulfilling the requirements in Article 6 of this Regulation					
Document number		Validating authority (name, address, tel., fax)			
1. Description of product		2. References of applicable conservation and management measures			
Species	Product code	Verified weight landed (kg)			
3. List of vessels that have provided catches and the quantities by each vessel (name, registration number, etc. annexed):					
4. Name, address, tel. and fax of exporter		Signature	Date	Seal (stamp)	
5. Flag State authority validation:					
Name/Title		Signature	Date	Seal (stamp)	
6. Transport details (<i>see Appendix</i>)					
7. Importer declaration:					
Name and address of Importer		Signature	Date	Seal (stamp)	Product CN code
8. Import control: Authority		Place	Importation authorized (*)	Importation suspended (*)	Verification requested – date
Customs declaration (If Issued)		Number		Date	Place

(*) Tick as appropriate.

(II) EUROPEAN COMMUNITY RE-EXPORT CERTIFICATE			
Certificate number	Date	Member State	
1. Description of re-exported product		Weight (kg)	
Species	Product code	Balance from total quantity declared in the catch certificate	
2. Name of re-exporter	Address	Signature	Date
3. Authority			
Name/Title	Signature	Date	Seal/Stamp
4. Re-export control			
Place:	Re-export authorizes(*)	Verification requested (*)	Re-export declaration number and date

(*) Tick as appropriate.

Appendix

Transport details

1. Country of exportation Port/airport/other place of departure	2. Exporter signature			
Vessel name and flag Flight number airway bill number Truck nationality and registration number Railway bill number Other transport document	Container number(s) List attached	Name	Address	Signature

ANNEX V

Catch documentation schemes adopted by regional fisheries management organisations recognised as complying with the requirements of Regulation (EC) No 1005/2008

Part I Catch documentation schemes recognised as complying with the requirements of Regulation (EC) No 1005/2008:

— *Dissostichus spp.* catch documentation scheme as set out in Council Regulation (EC) No 1035/2001 of 22 May 2001 establishing a catch documentation scheme for *Dissostichus spp.*⁽¹⁾.

— ICCAT Bluefin Tuna Catch Documentation Programme as set out in ICCAT Recommendation 08-12 amending 07-10 on an ICCAT Bluefin tuna Catch Documentation Programme.

Part II Catch documentation schemes recognised as complying with the requirements of Regulation (EC) No 1005/2008, subject to additional conditions:

— CCSBT (Commission for the Conservation of Southern Bluefin Tuna) — Resolution on the implementation of a CCSBT Catch Documentation scheme (adopted at the Fifteenth Annual Meeting — 14-17 October 2008). In addition to the catch documents and any related documents validated in conformity with the CCSBT Catch Documentation scheme, the importer shall submit to the authorities of the Member States of importation the information on transport details, specified in the Appendix on transport details included in Annex II of Regulation (EC) No 1005/2008.

(1) OJ L 145, 31.5.2001, p.1.

ANNEX VI

Submission periods of catch certificates for consignments referred to in Article 8

Four-hour period for submission of catch certificate prior to entry into the Community

Consignments of fishery products entering the Community by airfreight

Two-hour period for submission of catch certificate prior to entry into the Community

Consignments of fishery products entering the Community by road

Four-hour period for submission of catch certificate prior to entry into the Community

Consignments of fishery products entering the Community by railway

ANNEX VII

EUROPEAN COMMUNITY SPECIMEN



Application for APEO certificate
(Referred to in Article 14)

NB: please refer to the explanatory note when filling out this form

1. Applicant		Reserved for authorities	
2. Legal status of applicant		3. Date of establishment	
4. Address of establishment			
5. Location of main business			
6. Contact person (name, phone, fax, email)		7. Correspondence address	
8. VAT ID number(s)	9. Trader Identification number(s)/ EORI number		10. Legal registration number
11. AEO certificate number	12. Member State where customs related activities are carried out		13. Monthly average number/ volume of Import operations

14. Office where catch certificate documentation is kept	
15. Office responsible for providing all catch certificate documentation	
16. Location(s) where imported products are kept	
17. Signature:	Date:
Name:	Number of annexes:

Explanatory notes:

The application and related documents must be submitted, electronically or in paper form, as requested by the Member State to which the application is sent.

1. **Applicant**
Enter the full name of the applicant economic operator.
2. **Legal status**
Enter the legal status as mentioned in the document of establishment.
3. **Date of establishment**
Enter – with numbers – the day, month and year of establishment.
4. **Address of establishment**
Enter the full address of the place where your entity was established, including the country.
5. **Location of main place of business**
Enter the full address of the place of your business where the main activities are carried out.
6. **Contact person**
Indicate the full name, phone and fax numbers, and email address of the contact person designated by you within your company to be contacted by the authorities when examining the application.
7. **Correspondence address**
Fill in only in case it differs from your address of establishment.
- 8, 9 and 10 **VAT ID, trader identification and legal registration numbers**
Enter the required numbers.
The trader identification number(s) is(are) the identification number(s) registered by the customs authority(ies).
The economic operators registration and identification (EORI) number is the identification number registered by the customs authority(ies).
The legal registration number is the registration number given by the company registration office.
If these numbers are the same, enter only the VAT ID number.

11. **AEO certificate number**

Enter the required number.

12. **Member State where customs related activities are carried out**

Enter the relevant ISO alpha-2 country code. Must be the same as Member State where the status of authorised economic operator has been granted.

13. **Monthly average number/volume of import operations**

14. Enter the monthly average number/volume of import operations over the past 12 months.

14, 15 and 16 **Offices/locations for documentation/products**

Enter the full addresses of the relevant offices/locations. If the offices/locations have the same address, fill in only Box 14.

17. **Name, date and signature of the applicant**

Signature: the signatory should add his capacity. The signatory should always be the person who represents the applicant as a whole.

Name: name of the applicant and the stamp of the applicant.

Number of annexes: the applicant shall provide the following general information:

1. The application, including annexes, for the status of authorised economic operator.
2. The AEO certificate from the authorities granting the status of authorised economic operator.
3. Documentation for the number of import operations over the past 12 months.

ANNEX VIII

EUROPEAN COMMUNITY

SPECIMEN



APEO certificate

<p>.....</p> <p>(certificate number)</p>	
<p>1. Holder of the APEO certificate</p>	<p>2. Issuing authority</p>
<p>3. Date from which the certificate is effective</p>	

Explanatory notes:

Certificate number

The certificate number shall always begin with the ISO alpha-2 country code of the issuing Member State, followed by the national authorisation number.

1. Holder of the APEO certificate

The full name of the Holder shall be mentioned, as indicated in Box 1 of the Application form in Annex VII, as well as the VAT ID number(s) as indicated in Box 8 of the application form, and the AEO number as indicated in Box 11 of the application form.

2. Issuing authority

Signature, the name of the Member State's administration and the stamp.

The name of the Member State's administration can be mentioned on a regional level, if the organizational structure of the administration so requires.

3. Date from which the certificate is effective

Indicate the day, month and the year, in accordance with Article 21(1).

ANNEX IX

Administrative arrangement with flag States pertaining to the implementation of the catch certification provisions
(Article 12(4) of Regulation (EC) No 1005/2008)

ANNEX XA

Form for submission of information regarding sighted fishing vessels

Vessel name: _____ International radio call sign: _____ Flag: _____

Registration number (and, if appropriate, Lloyds IMO number): _____

Description of vessel (distinguishing markings): _____

Type of vessel (e.g. longliner, trawler): _____

Initial position: Latitude _____ Longitude (east/west) _____

Fishing area, sub-area, division: _____

Contact/sighting (tick appropriate box): Visual Radar Radio traffic

Radio contact made with the vessel: Yes No

Details of person(s) contact on board of sighted vessel:

Summary content of radio conversation: _____

Time and activity (e.g. fishing, transiting) of sighted vessel:

Date: _____ Time: _____ Activity: _____ Direction: _____ Position: _____

Date: _____ Time: _____ Activity: _____ Direction: _____ Position: _____

Date: _____ Time: _____ Activity: _____ Direction: _____ Position: _____

Date: _____ Time: _____ Activity: _____ Direction: _____ Position: _____

Date: _____ Time: _____ Activity: _____ Direction: _____ Position: _____

Record of sighting (e.g. by photograph or video): _____

Comments: _____

Photo or sketch of vessel, indicating distinguishing structures, profile, masts and marketings:

Date of reporting: _____ Reported by (contact details): _____

ANNEX XB

Instructions for filling the format set out in Annex XA

FILL IN AS MUCH INFORMATION AS POSSIBLE

1. Vessel name, call sign, flag and if possible registration and Lloyd IMO number are to be obtained from what is seen on the vessel or from radio contact with the vessels (the source of this information must be reported).
2. Distinguishing markings: state whether the name and port of registration of the vessel was visible or not. Record hull and superstructure colours, number of masts, position of bridge and funnel length, etc.
3. Type of vessel: describe the type of vessel and gear sighted (e.g. longliner, trawler, factory ship, carrier ship).
4. Position: record the initial sighting of the vessel, including fishing area/sub-area/division.
5. Activity of the sighted vessel: record the time of the sighting, activity of the vessel at that time and heading (degrees). Record whether the vessel was fishing, setting fishing gear, trawling, hauling or other activities. Space is available for up to five sightings of the same vessel, if more space is needed complete this section on the back of the form or on a separate sheet of paper. Record presence/absence of a streamer line.
6. Record of sighting: indicate if the sighting of the vessel was recorded on video or with photographs (record where documents have been deposited under comments).
7. Comments: indicate the direction in which the vessel was transiting. Summarise any radio conversation that took place with indication of the name, nationality, position given by the person(s) contacted on board of the sighted vessel.
8. Diagram of vessel: draw the profile of the vessel, indicating any distinguishing markings that could be used for identification.

ANNEX XI

Standard form for the exchange of information on request according to Article 45

I. REQUEST FOR INFORMATION

Applicant authority -Member State - name - address - contact details of the official in charge	
Requested authority - Member State - name - address - contact details of the official in charge	
Date of transmission of the request	
Reference number applicant authority	
No of attachments to this request	
Details on the natural or legal person and/or fishing vessel subject to the request	<i>Provide all information available for the identification of concerned fishing vessels, masters, holders of fishing licences and/or fishing authorisations, owner, etc</i>
Information requested on	
<input type="checkbox"/> Possible IUU fishing as defined in Article 2(1) of Regulation (EC) No 1005/2008 or serious infringements referred to in Article 42(1) (b) and (c) of Regulation (EC) No 1005/2008 Article 45(1)	<i>Provide detailed questions and necessary background information and justification for the request</i>
<input type="checkbox"/> Possible infringements of Regulation (EC) No 1005/2008 Article 45(1)	<i>Provide detailed questions and necessary background information and justification for the request</i>
Request to carry out administrative enquiries Article 45(2)	<i>Provide detailed questions and necessary background information and justification for the request</i>
Request for the supply of documents or certified true copies in the possession of the requested authority Article 45(4)	<i>Provide detailed questions and necessary background information and justification for the request</i>
Any other general information or question	

II. REPLY

<p>Applicant authority</p> <ul style="list-style-type: none"> - Member State - name - address - contact details of the official in charge 	
<p>Requested authority</p> <ul style="list-style-type: none"> - Member State - name - address - contact details of the official in charge 	
Date of transmission of the request	
Reference number applicant authority	
Date of transmission of the reply	
Reference number requested authority	
No of attachments to this reply	
Information requested on	
<input type="checkbox"/> Possible IUU fishing as defined in Article 2(1) of Regulation (EC) No 1005/2008 or serious infringements referred to in Article 42(1) (b) and (c) of Regulation (EC) No 1005/2008	<i>Provide all relevant information available or gathered in the context of the request</i>
<input type="checkbox"/> Possible infringements of Regulation (EC) No 1005/2008	<i>Provide all relevant information available or gathered in the context of the request</i>
<p>Request to carry out administrative enquiries <i>Article 45(2)</i></p>	<i>Provide details and results of the administrative enquiries carried out</i>
<p>Request for the supply of documents or certified true copies in the possession of the requested authority <i>Article 45(4)</i></p>	<i>List the documents provided and attached as annex to this reply form</i>
Any other information	

ANNEX XII

Standard form for the request for administrative notification according to Article 48

I. REQUEST FOR ADMINISTRATIVE NOTIFICATION

Applicant authority - Member State - name - address - contact details of the official in charge	
Requested authority - Member State - name - address - contact details of the official in charge	
Date of transmission of the request	
Reference number applicant authority	
No of attachments to this request	
Details on the natural or legal person subject to the request	<i>Provide all information available for the identification of the addressee of the administrative notification</i>
Information on the subject of the instrument or the request	<i>Provide all possible information on the subject of the instrument or decision to be notified</i>

II. REPLY

Applicant authority - Member State - name - address - contact details of the official in charge	
Requested authority - Member State - name - address - contact details of the official in charge	
Date of transmission of the request	
Reference number applicant authority	
Date of transmission of the reply	
Reference number requested authority	
No of attachments to this reply	
Requested notification	
Information on the requested notification: - Date of notification to the addressee - failure of notification	<i>Indicate date in case of successful notification Indicate reasons in case of failed notification</i>
Other information	

ANNEX XIII

List of products excluded from the definition of ‘fishery products’ set out in point 8 of Article 2 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

- Freshwater fishery products, including
 - 0301 91 — Other live fish: Trout (*Salmo trutta*, *Oncorhynchus mykiss*, *Oncorhynchus clarki*, *Oncorhynchus aguabonita*, *Oncorhynchus gilae*, *Oncorhynchus apache* and *Oncorhynchus chrysogaster*) (1)
 - 0301 92 — Other live fish: Eels (*Anguilla* spp.)
 - 0301 93 — Other live fish: Carp
 - ex 0301 99 — Other: freshwater fish (CN 0301 99 11 and 0301 99 19)
 - 0302 11 — Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: Trout (*Salmo trutta*, *Oncorhynchus mykiss*, *Oncorhynchus clarki*, *Oncorhynchus aguabonita*, *Oncorhynchus gilae*, *Oncorhynchus apache* and *Oncorhynchus chrysogaster*)
 - 0302 12 — Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: Pacific salmon (*Oncorhynchus nerka*, *Oncorhynchus gorbuscha*, *Oncorhynchus keta*, *Oncorhynchus tshawytscha*, *Oncorhynchus kisutch*, *Oncorhynchus masou* and *Oncorhynchus rhodurus*), Atlantic salmon (*Salmo salar*) and Danube salmon (*Hucho hucho*)
 - 0302 66 — Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: Eels (*Anguilla* spp.)
 - ex 0302 69 — Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304: freshwater fish (CN 0302 69 11 and 0302 69 19)
 - 0303 11 — Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Pacific salmon (*Oncorhynchus nerka*, *Oncorhynchus gorbuscha*, *Oncorhynchus keta*, *Oncorhynchus tshawytscha*, *Oncorhynchus kisutch*, *Oncorhynchus masou* and *Oncorhynchus rhodurus*), excluding livers and roes
 - 0303 21 — Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Trout (*Salmo trutta*, *Oncorhynchus mykiss*, *Oncorhynchus clarki*, *Oncorhynchus aguabonita*, *Oncorhynchus gilae*, *Oncorhynchus apache* and *Oncorhynchus chrysogaster*)
 - 0303 22 — Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Atlantic salmon (*Salmo salar*) and Danube salmon (*Hucho hucho*)
 - 0303 76 — Fish, frozen, excluding fish fillets and other fish meat of heading 0304: Eels (*Anguilla* spp.)
 - ex 0303 79 — Other Fish, frozen, excluding fish fillets and other fish meat of heading 0304: freshwater fish (CN 0303 79 11 and 0303 79 19)
 - ex 0304 19 — Fish fillets and other fish meat (whether or not minced), fresh or chilled: freshwater fish (CN 0304 19 13; 0304 19 15; 0304 19 17; 0304 19 19 and 0304 19 91)
 - ex 0304 29 — Frozen fillets: of freshwater fish (CN 0304 29 13; 0304 29 15; 0304 29 17 and 0304 29 19)
 - ex 0304 99 — Other frozen fish meat: of freshwater fish (CN 0304 99 21)
 - ex 0305 30 — Fish fillets, dried, salted or in brine, but not smoked: of Pacific salmon (*Oncorhynchus nerka*, *Oncorhynchus gorbuscha*, *Oncorhynchus keta*, *Oncorhynchus tshawytscha*, *Oncorhynchus kisutch*, *Oncorhynchus masou* and *Oncorhynchus rhodurus*), Atlantic salmon (*Salmo salar*), and Danube salmon (*Hucho hucho*), salted or in brine (CN 0305 30 30); of trout of the species *Salmo trutta*, *Oncorhynchus mykiss*, *Oncorhynchus clarki*,

(1) CN codes corresponding to Commission Regulation (EC) No 1031/2008 (OJ L 291, 31.10.2008).

- Oncorhynchus aguabonita*, *Oncorhynchus gilae*, *Oncorhynchus apache* and *Oncorhynchus chrysogaster*; of carp (ex CN 0305 30 90)
- ex 0305 41 — Smoked fish, including fillets: Pacific salmon (*Oncorhynchus nerka*, *Oncorhynchus gorbuscha*, *Oncorhynchus keta*, *Oncorhynchus tshawytscha*, *Oncorhynchus kisutch*, *Oncorhynchus masou* and *Oncorhynchus rhodurus*), Atlantic salmon (*Salmo salar*) and Danube salmon (*Hucho hucho*)
 - ex 0305 49 — Smoked fish, including fillets: Trout (*Salmo trutta*, *Oncorhynchus mykiss*, *Oncorhynchus clarki*, *Oncorhynchus aguabonita*, *Oncorhynchus gilae*, *Oncorhynchus apache* and *Oncorhynchus chrysogaster*) (CN 0305 49 45); Eels (*Anguilla* spp.) (CN 0305 49 50); Carp (ex CN 0305 49 80)
 - ex 0305 59 — Dried fish, whether or not salted but not smoked: Trout (*Salmo trutta*, *Oncorhynchus mykiss*, *Oncorhynchus clarki*, *Oncorhynchus aguabonita*, *Oncorhynchus gilae*, *Oncorhynchus apache* and *Oncorhynchus chrysogaster*); Carp (ex CN 0305 59 80)
 - ex 0305 69 — Fish, salted but not dried or smoked and fish in brine: Pacific salmon (*Oncorhynchus nerka*, *Oncorhynchus gorbuscha*, *Oncorhynchus keta*, *Oncorhynchus tshawytscha*, *Oncorhynchus kisutch*, *Oncorhynchus masou* and *Oncorhynchus rhodurus*), Atlantic salmon (*Salmo salar*) and Danube salmon (*Hucho hucho*) (CN 0305 69 50); Trout (*Salmo trutta*, *Oncorhynchus mykiss*, *Oncorhynchus clarki*, *Oncorhynchus aguabonita*, *Oncorhynchus gilae*, *Oncorhynchus apache* and *Oncorhynchus chrysogaster*); Carp (ex CN 0305 69 80)
 - ex 0306 19 — Other crustaceans, including flours, meals and pellets of crustaceans, fit for human consumption, frozen: Freshwater crayfish (CN 0306 19 10)
 - ex 0306 29 — Other crustaceans, including flours, meals and pellets of crustaceans, fit for human consumption, not frozen: Freshwater crayfish (CN 0306 29 10)
 - 1604 11 00 — Prepared or preserved fish, whole or in pieces, but not minced: Salmon
 - ex 1604 19 — Prepared or preserved fish, whole or in pieces, but not minced: Salmonidae, other than salmon (CN 1604 19 10)
 - ex 1604 20 — Other prepared or preserved fish: of salmon (CN 1604 20 10); of salmonidae, other than salmon (CN 1604 20 30)
 - ex 1605 40 00 — Other crustaceans prepared or preserved: Freshwater crayfish cooked with dill, frozen
- Aquaculture products obtained from fry or larvae
- 0301 10 — Live ornamental fish
 - 0307 10 — Oysters, whether in shell or not, live fresh, chilled, frozen, dried, salted or in brine
- Scallops incl. queen scallops, of the genera *Pecten*, *Chlamys* or *Placopecten*
- 0307 21 — Live, fresh or chilled (CN 0307 21 00)
 - 0307 29 — Other
- Mussels
- 0307 31 — Live, fresh or chilled
 - 0307 39 — Other
 - ex 1605 90 — Other (CN 1605 90 11 and 1605 90 19)
- 0307 60 00 — Snails, others than sea snails
- 0305 10 00 — Flours, meals and pellets of fish, fit for human consumption
- ex 1605 90 30 — Other crustaceans, molluscs and other aquatic invertebrates, prepared or preserved: scallops, oysters, snails
- 1605 90 00 — Other aquatic invertebrates, prepared or preserved



Status of Fisheries Management in the BOBP-IGO Member-Countries

1.0 Introduction

The objective of this document is to review the present status of fisheries management in the member-countries of the Bay of Bengal Programme Inter-Governmental Organisation (BOBP-IGO): Bangladesh, India, Maldives and Sri Lanka. The main focus of the review is on the characteristics of fleet composition, fisheries resources and their exploitation and fisheries administrative structures to assess the preparedness of member-countries to meet the requirements of the EU-IUU Regulation. Information on fisheries trade, particularly with the EU member-states, is also analyzed to understand the impact of trade regulations, if any, on the BOBP-IGO member-countries.

2.0 Bangladesh

The fisheries sector occupies a significant position in the economy of Bangladesh. The sector accounts for 3.74 percent of GDP, 4.04 percent of the export earnings (2005/2006), 6 percent of the supply of protein and about 80 percent of the animal protein intake of its population. The country has an annual harvestable potential of 7 - 8 000 metric tonnes (mt) of shrimp and 40 - 55 000 mt of demersal fish as per an exploratory survey carried out during 1979-80.

2.1 The marine fisheries sector of Bangladesh

Functionally, marine capture fisheries are sub-divided into artisanal and industrial fisheries. In Bangladesh, marine fishing occurs within the 100 meter isobaths and as such, deep-water pelagic and demersal resources are largely unexplored and untapped by the Bangladesh fishers. The only industrial fishing developed in Bangladesh operates out of Chittagong on the east coast. It targets mainly shrimp resources.

In Bangladesh, fisheries information is collected from log books submitted by trawlers and from traders, fish wholesalers and fishers. The data collection system in the country is ad-hoc in nature. As per the available information, the total marine capture fish production of Bangladesh is 4 97 573 tonnes in 2008 (Department of Fisheries). The artisanal fishery (including motorized boats) contributes over 90 percent of the total landing (*Tables 1 & 2*).



Table 1: Composition of marine catch in Bangladesh (1999 - 2006)

Marine Fisheries	Annual Total Catch (MT)						
	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06
Industrial Fisheries	16 304	23 901	25 165	27 954	32 606	34 114	34 084
Artisanal Fisheries	317 495	355 596	390 255	403 954	422 601	440 483	445 726
Total	333 799	379 497	415 420	431 908	455 207	474 597	479 810

Source: Fishery Statistical Year Book of Bangladesh, 2005-2006

The FAO data shows that marine fishes and hilsa account for the bulk of the reported fish landings in Bangladesh. Other important species are marine crustacean and seer fish. Lack of information on species-wise landings is quite evident from the data reporting (*Figure 1*).

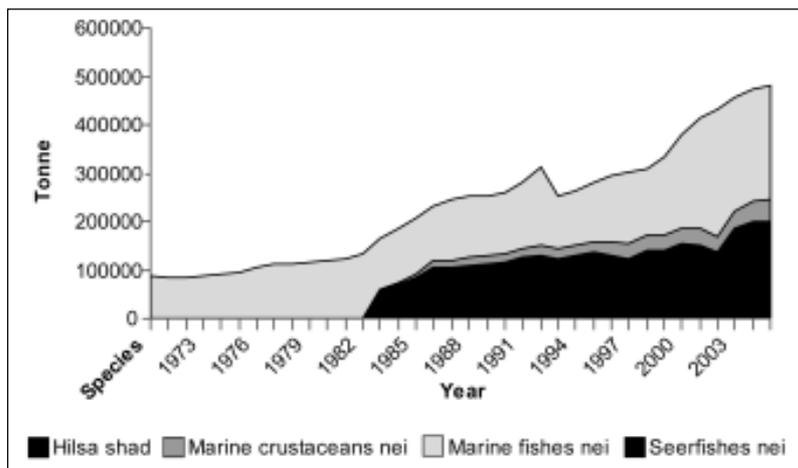


Figure 1: Fish landings in Bangladesh during 1971-2007

In terms of fleet composition, non-mechanized fishing vessels dominate the scene with a comparable number of mechanized fishing vessels (*Table 2*). Commonly used gear for fishing are trawl nets, gill nets (both by mechanized and non-mechanized fishing vessels), set bag nets, long lines and trammel nets. Gill nets account for 54.50 percent of the catch, and set bag nets account for about 32 percent of the catch, while trawls account for 7.26 percent and long line for about 3 percent of the catch. Miscellaneous gear contributed about 3.34 percent of the catch in the country during the period 2005-06.

Table 2: Summary of fishing vessels in Bangladesh (2005-06)

Mechanized fishing fleet			Non-Mechanized fishing fleet		
Type of fishing	Number of vessels	Landings (intones)	Type of fishing	Number of vessels	Landings in tonnes)
Industrial Shrimp trawl	42	6 921	Gill netter	6 377	45 776
Industrial Fish trawl	80	27 163	Set Bag Net Boats	11 674	124 358
Gill netter	18 922	218 851	Long liner	1 291	4 368
Set Bag Net Boats	1 091	29 329	Trammel net	1 103	7 399
Long lines	1 350	11 856	Other gear	2 082	3 789
Total mechanised	21 485	294 120	Total non mechanized	22 527	185 690
Total fishing vessels					44 012
Trawlers - 122; Gill netters - 25 299; Set bag nets - 12 765; Long liners - 2 641					

Source: DoF, Bangladesh

2.2 Fisheries governance and administration

The Bangladesh Territorial Waters and Maritime Zones Act, 1974, is the basic law that sets out the claim to sovereignty and sovereign rights over the territorial sea, contiguous zone, continental shelf and the EEZ (Exclusive Economic Zone). The most important aspect of the law for present purposes is the provision it makes for proclamation of an 'economic' zone. As per Section 5 of the Act:

“(1) The Government may, by notification in the official Gazette, declare any zone of the high seas adjacent to the territorial waters to be the economic zone of Bangladesh specifying therein the limits of such zone.

(2) All natural resources within the economic zone, both living and non-living, on or under the seabed and sub-soil or on the water surface or within the water column shall vest exclusively in the Republic.

(3) Nothing in sub-section (2) shall be deemed to affect fishing within the economic zone by a citizen of Bangladesh who uses for the purpose vessels which are not mechanically propelled.”

For continental shelf of Bangladesh, the Act states that:

“No person shall, except under and in accordance with the terms of, a licence or permission granted by Government explore or exploit any resources of the continental shelf or carry out any search or excavation or conduct any research within the limits of the continental shelf: Provided that no such licence or permission shall be necessary for fishing by a citizen of Bangladesh who uses for the purpose vessels which are not mechanically propelled.”

However, the governing law for marine capture fisheries is the Marine Fisheries Ordinance of 1983. This Ordinance contains 11 Parts divided into 55 sections: *i.e.* Preliminary (I); Administration (II); General Provisions Governing Licences (III); Local Marine Fishing Operations (IV); Foreign Marine Fishing Operations (V); Appeal (VI); Prohibited Fishing Methods (VII); Marine Reserves (VIII); Powers of Authorized Officers (IX); Offences and Legal Procedures (X); and Rules (XI).

The law under Part I, Section 3 provides that the Government may exempt any non-mechanized and limited horsepower local fishing vessels from the general provisions governing licences. The Government may also determine a specific zone in which only such vessels may engage in fishing operations (Section 3(2)).

Part II of the said law is devoted to administration. Under Part III, there are general provisions governing licences; licences are not transferable except with written permission of the Director and the holder of a licence has a duty to provide information regarding catch. Before issuing a licence, local fishing vessels shall be registered and shall have been inspected (Part IV).

Fishing operations conducted by foreign fishing vessels are subject to prior authorization (Part V). Decisions made by the Director or a Fisheries Officer can be appealed against (Part VI). Prohibited fishing methods are set out in Part VII and include the use of explosives, and use of fishing nets with unlawful mesh size. For conservation and management purposes, the Government may declare any area of the Bangladesh fisheries waters and any adjacent or surrounding land to be a marine reserve (Part VIII). Part IX and X deal with powers of authorized officers and offences and legal procedures respectively. Lastly, Part XI sets out the matters upon which the Government is authorized to make rules.

Under the law there is provision for extending the authority of the Government to the high seas. The law further extends its jurisdiction to *“any other marine waters over which [the government] has or claims to have jurisdiction under law with respect to the management, conservation and development of the marine living resources.”*

Followings are the provisions in the Marine Fisheries Ordinance, 1983:

- Director to issue licences - Fishing licence of the fishing vessel is issued by Director, Marine Fisheries Office under the Ministry of Fisheries and Livestock after physical verification of the vessel and fishing gear followed by validity of all documents (Registration and Certificate of Inspection) in accordance with Marine Fisheries Ordinance. (**Ref.-Part-III/8**)
- Registration of the fishing vessel is carried out by the Mercantile Marine Department under the Ministry of Shipping after physical verification of the vessel in accordance with the Shipping Ordinance.
- Duty to provide information regarding catches - The holder of any licence shall keep detailed information of catches as well as sales in such form as may be prescribed and a copy of this information shall be furnished to the Director. (**Ref.- Part-III/14**)
- No entry for foreign fishing vessels in Bangladesh waters except with licence. (**Ref.- Part-V/20**)
- Foreign fishing vessels liable to fine and forfeiture if found in Bangladesh waters illegally. Where any foreign vessel enters the Bangladesh fisheries waters except in accordance with Section 21 or except in accordance with the terms of a licence, the skipper, owner and charterer, if any, of such

vessel shall be guilty of an offence and shall be liable to rigorous imprisonment for a term not exceeding three years and to a fine not exceeding Taka one lakh⁹. (*Ref. Part-V/22*)

Area for fishing -

- Area for fishing of artisanal fisheries is upto the depth of 40 meters at its highest tide.
- Area for fishing with set bag nets is earmarked up to 40 meters depth of marine waters at its highest tide.
- Area for fishing using hooks and lines is earmarked up to 40 meters of depth of marine waters at its highest tide.
- Areas for fishing with drift net (*Bhasajal*) for fishing ilish (Hilsha) and like fishes are earmarked up to the depth of 40 meter of marine waters at its highest tide.
- Areas for fishing with drift net (*Bara vasajal-Lakhyajal*) are earmarked up to the depth of 40 meters of marine waters at its highest tide.
- Areas for fishing with trawlers are earmarked for operation beyond 40 meters of marine waters at its highest tide.

Mesh size - All licenced fishing vessels shall use nets of mesh size of the following dimensions:

- (a) for shrimp trawl net (Boom) with low opening, the minimum mesh size shall be 45 mm at the cod end;
- (b) for fish trawl net, mesh size at the cod end shall be 60 mm;
- (c) for large mesh drift net (LMD), the minimum mesh size shall be 200 mm;
- (d) for small mesh drift net (SMD), the minimum mesh size shall be 100 mm; and
- (e) for set bag net (*Behundi* net), the minimum mesh size at the cod end shall be 45 mm.

Requirements for fishing in the Bangladesh fisheries waters -

All fishing vessels shall -

- a) have licence for fishing in the Bangladesh fisheries waters;
- b) possess valid required certificate;
- c) display nationality sign through flag and suitable markings on the visible part of the vessel. A foreign fishing vessel shall fly courtesy flag that is the national flag of Bangladesh so long it remains in the territorial waters and EEZ of Bangladesh.

2.3 Scope of traceability

Although at present there is no specific provision for traceability of fisheries products, various provisions under the Marine Fisheries Ordinance and the Fish and Fish Products (Inspection and Quality Control) Ordinance, 1983 do point towards possible control measures and implementation of traceability measures.

As per the provisions of Marine Fisheries Ordinance, the landing or transshipment of the catch of any fishing vessel should be made in the presence of an authorized officer. Further, every vessel engaged in trawl fishing should obtain pre-sailing permission for fishing from the concerned Marine Fisheries Office. The Ordinance also provides that every freezer vessel engaged in trawl fishing may be allowed sailing permission for a period not exceeding 30 (thirty) days and every non-freezer fishing vessel engaged in trawl fishing may be allowed sailing permission for a period not exceeding 15 (fifteen) days at a time and that every fishing vessel shall respond to the instruction of an authorized officer at a Marine Fisheries Surveillance Check Post or at any other place.

The Fish and Fish Products (Inspection and Quality Control) Ordinance, 1983 is meant to deal with any trade or use of sub-standard product. Under the Ordinance, the Department of Fisheries (Fish Inspection and Quality Control) issues a certificate to the effect that the certified product meets international health and safety criteria. However, some provisions of the Ordinance are useful in establishing the traceability of the product. For example, Section 4 of the Ordinance regarding product inspection mentions:

⁹ 1 lakh = 1 00 000

“The Government may, for the purpose of seeing that the provisions of this Ordinance and the rules made there under have been complied with, appoint such person or persons to be Inspectors as it deems fit and any Inspector appointed under this sub-section or any officer empowered by the Government in this behalf may -

- (a) at all reasonable times enter any place or premises or go on board any steamship, vessel or boat, any railway car, truck, carriage, aircraft or other vehicle used for the carriage and storage of fish and fish products and inspect the same and open any container if he believes or has reason to believe that the container contains fish and fish products and take sample of any fish or fish products for inspection free of cost;
- (b) require and enforce production of any book, shipping bills, bills of landing or other documents or papers for inspection or for the purpose of obtaining copies thereof or extracts there from; and
- (c) no person shall obstruct, impede or refuse admittance, or aid or assist in the obstruction, impedance or refusal of admittance, to an Inspector or any officer empowered in the performance of his duties.

2.4 State of MCS activities in Bangladesh waters

Bangladesh has implemented a set of measures at port and sea for controlling fishing. As per the Marine Fisheries Ordinance, 1983 no fishing vessel is allowed to load or unload any fish, fuel or supplies or transship any fish in Bangladesh waters and all fish caught must be unloaded only in the specified permitted port. The Ordinance also requires that crews should be local and pre-sailing permission and post-sailing reporting of catch for industrial trawlers should be complied with.

Shore based monitoring: The major problem with fisheries governance in Bangladesh is the large number of unlicensed operational fishing fleet. As per the existing statistics (**Table 3**), a majority of the fishing fleet in the non-industrial category is still unlicensed. However, this situation is partially due to a system failure and not due to lack of enabling provisions in the legislation. Lack of manpower and facility to register all the fishing boats in operation and to issue/ renew their licence periodically as suggested in the Marine Fisheries Ordinance is one of the major problems faced by fisheries managers in Bangladesh. Secondly, the status of non-mechanized fishing vessels with respect to licensing is not clear. The Maritime Act of Bangladesh exempts such vessels from licensing while in the Marine Fisheries Ordinance, the licensing of non-mechanized vessels is vested in the discretionary powers of the relevant authority (DoF).

At-sea monitoring: The Marine Fisheries Office, Bangladesh Navy and Coast Guard are the responsible authorities for monitoring of the waters, both for domestic and foreign fishing vessels. As per the available information (**Table 4**), Bangladesh waters are subjected to IUU fisheries both from domestic and foreign fishing vessels. This is largely because the Navy and the Coast Guard have limited capacity as compared to the task in hand. The information furnished by the DoF shows that during 2005-07, 15 domestic mechanized boats were penalized for IUU activities. The penalized domestic fishing vessels were mostly gill netters and operating out of Chittagong, the largest fishing port in Bangladesh. During 2006-09, Bangladesh also apprehended five foreign fishing vessels flying the flags of Taiwan, Thailand and Sri Lanka. The foreign fishing vessels were all long liners. However, the government is taking measures for capacity building of Navy and Coast Guard. DoF is also running a coastal watch programme.

Table 3: Status of licensing of fishing vessels in Bangladesh (31.03.2009)

Type of vessel	Licensed	Unlicensed	Total
Trawler (Industrial) ¹⁰	121	34 (trial)	155
Mechanized boat	3 500	18 500	22 000
Non -mechanized boat	-	22 500	22 500

¹⁰ The list of the domestic fleet of deep-sea fishing vessels (> 24 meter length overall), the type of vessels and their area of operation is given in Annexure 1.

Table 4: Domestic & foreign fishing vessels apprehended due to IUU fishing till 2009 in Bangladesh

Sl. No	Name of the mechanized boat	Date when penalized	Home port	Vessel type
Domestic fishing vessels				
1	FB Zainal	July-2005	Chittagong	Gill netter
2	FB Mofzal Bahib	Aug-2005	Chittagong	Gill netter
3	FB Razia	Aug-2005	Chittagong	Gill netter
4	FB Mariam Begum	Aug-2005	Chittagong	Gill netter
5	FB Nur Kulsuma	Aug-2005	Chittagong	Gill netter
6	FB Nizam-1	Aug-2005	Chittagong	Gill netter
7	FB Tania Akter	Aug-2005	Chittagong	Gill netter
8	FB Moitri T	March-2007	Chittagong	Fish Trawler
9	FB Sazu	March-2007	Chittagong	Gill netter
10	FB Oroin	April-2007	Chittagong	Fish Trawler
11	FB Ma Babar Doa	Aug-2007	Chittagong	Gill netter
12	FB Sahabuddin	Aug-2007	Chittagong	Gill netter
13	FB Alamgir	Aug-2007	Chittagong	Gill netter
14	FB Vai Vai Touhid	Sep-2007	Chittagong	Gill netter
15	FB Nur Kulsuma	Sep-2007	Chittagong	Gill netter
Foreign fishing vessels				
1	Lien Hsing	27-03-2006	Taiwan	Long Liner
2	Jin-Ching No-1	27-03-2006	Thailand	Long Liner
3	Joyaruk-2	18-3-2009	Sri Lanka	Long Liner
4	Joyaruk-3	18-3-2009	Sri Lanka	Long Liner
5	Joyaruk-5	18-3-2009	Sri Lanka	Long Liner

2.5 Impact of EU-IUU Regulation

The fisheries export of Bangladesh comprises various species of shrimp (frozen), crabs, salmonoid (frozen), freshwater fishes, hairtail (frozen), etc. These products together comprise about 93 percent of the total export in quantity terms and 97 percent in value terms (*Table 5*).

During the same period (2000-06), the total export of various fish and fish products from Bangladesh to EU-27¹¹ has increased nearly two-fold from 16 192 tonnes to 31 477 tonnes (*Figure 2*). As the Figure shows, although there is a marginal decline in the share of EU in total export of fish and fishery products, it is still the single most important market for Bangladesh. More importantly, the EU market is a growing market for Bangladeshi fisheries products.

¹¹ *The European Union comprises 27 sovereign member-states: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.*

Table 5: Top 10 exported fish products from Bangladesh (2000-06)

Commodity	Total exports in quantity (tonnes)	Share in total exports in quantity (%)	Share in total exports in value (%)	Whether covered by EU-IUU regulation
Shrimps and prawns, frozen, <i>nei</i>	231 799	63.92	82.31	Y
Shrimps and prawns (<i>Penaeus</i> spp.), frozen	27 320	7.53	7.17	Y
Fish, frozen, <i>nei</i>	35 564	9.81	2.69	Y
Freshwater fishes <i>nei</i> , frozen	4 598	1.27	1.09	N
Salmonoids, frozen	9 400	2.59	1.07	Y
Crabs, not frozen	8 425	2.32	1.01	Y
Fish, fresh or chilled, <i>nei</i>	11 540	3.18	0.79	Y
Pacific salmon, frozen, <i>nei</i>	3 036	0.84	0.65	Y
Hairtails, frozen	2 329	0.64	0.38	Y
Crabs, peeled or not, fresh or chilled	2 202	0.61	0.32	Y
Total share		92.71	97.48	

Source: Calculated from FAO data base

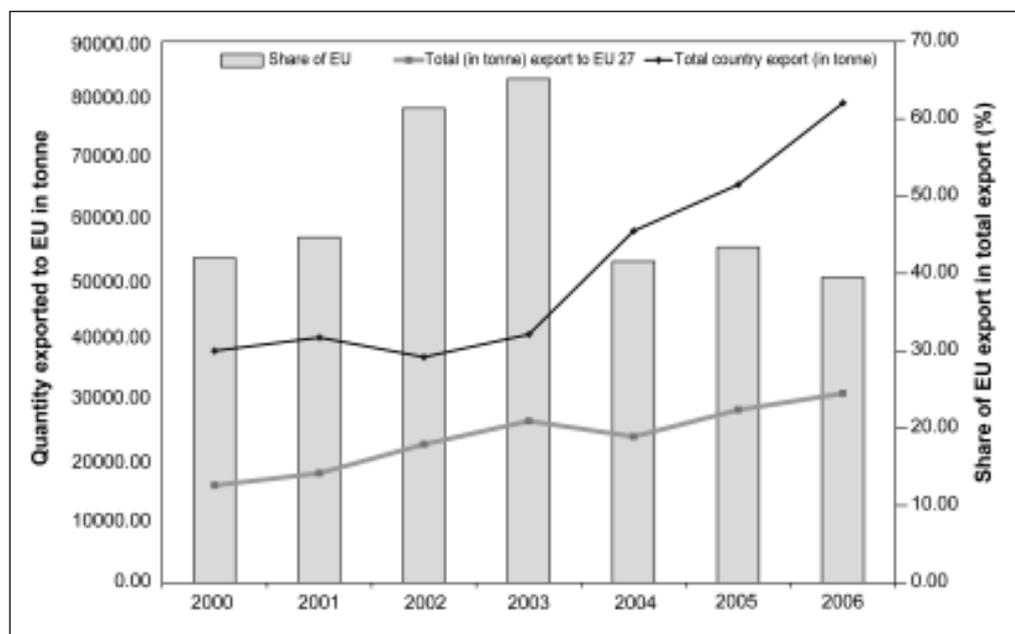


Figure 2: EU-Bangladesh Trade (2000-06)

2.6 Summation

Summing up, the Ministry of Fisheries and Livestock and the Department of Fisheries are the constitutional authorities for development of the fisheries sector in the country. The existing legislation governing fisheries sector provides a sound framework for managing the resources. However, the major problem is that these legal measures are not backed by necessary wherewithal. Regarding IUU fishing, there are no clear provisions about fishing in the high seas by foreign or domestic fishing vessels. The traceability of fisheries products stops with industrial fishing. At present, there are no means, legal or otherwise, to involve the small-scale sector in matters like traceability. In view of the EU-IUU Regulation, this may call for a major revision of the legal framework, if not negotiated otherwise. The EU-Bangladesh fishery trade is showing good signs of growth as the data shows. Also more than 1/3rd of fisheries exports from Bangladesh are destined for EU member-states. Hence, any hindrance in the trade due to the EU-IUU Regulation may spell problems for the fisheries sector in particular and the economy in general.



Annexure 1: List of the domestic fleet of deep-sea fishing vessels (> 24 meter length overall) as per type of fishing

Sl.No	Name of the vessel	Type of vessel	Sl. No	Name of the vessel	Type of vessel	Sl. No	Name of the vessel	Type of vessel	Sl. No	Name of the vessel	Type of vessel	Sl. No	Name of the vessel	Type of vessel
1	FV Kohinoor-2	Fish Trawler (FT)	26	FV Peninsula-3	Mid-water Trawler	51	FV Sania	FT	75	FV A.H.M-1	ST			
2	FV Ocean-3	FT	27	FV Peninsula-4	Mid-water Trawler	52	FV Cristal -1	Demersal Trawler	76	FV A.H.M-2	ST			
3	FV Ocean-4	FT	28	FV Korai	FT	53	FV Cristal -2	Demersal Trawler	77	FV Hasiken-10	ST			
4	FV Kingfisher	FT	29	FV Minakhi	FT	54	FV Sagar Sampad	FT	78	FV Meenher-1	ST			
5	FV Gladiator	FT	30	FV Long Fin-1	Demersal Trawler	55	FV Hardford-2	FT	79	FV Meenher-2	ST			
6	FV Sea Heart	FT	31	FV Long Fin-2	Demersal Trawler	56	FV Hardford-4	FT	80	FV Imam-1	ST			
7	FV Sea Heart-2	FT	32	FV Mitali	FT	57	FV Hardford-5	FT	81	FV Imam-2	ST			
8	FV Joe Endeavor	Squid Jigger	33	FV Karnatari	Mid-water Trawler	58	FV Hardford-6	Shrimp Trawler (ST)	82	FV Imam-3	ST			
9	FV Sungthon	FT	34	FV Speed-1	Demersal Trawler	59	FV Hardford-7	FT	83	FV Meghna -3	ST			
10	FV Usha	FT	35	FV Speed-2	Mid-water Trawler	60	FV Hardford-9	FT	84	FV Fisher-1	ST			
11	FV Sukhtara	FT	36	FV Zaran	FT	61	FV Hardford-10	ST	85	FV Fisher-2	ST			
12	FV Sea Mastar	Mid-water Trawler	37	FV Meghna-5	FT	62	FV Karim 1	Mid-water Trawler	86	FV Fisher-3	ST			
13	FV Ark	Mid-water Trawler	38	FV Lakhua	FT	63	FV S. Nahar	FT	87	FV Fisher-4	ST			
14	FV Mehrij	FT	39	FV Harty	Mid-water Trawler	64	FV Khadem Ali	FT	88	FV Siam	ST			
15	FV Hafiz Bari	FT	40	FV Desperodo	Mid-water Trawler	65	FV Pride	Squid Jigger	89	FV Magferat	ST			
16	FV Hafiz Zamir	FT	41	FV Suprat-2	Squid Jigger	66	FV Mahiswar-1	ST	90	FV Nazat	ST			
17	FV Ayub Monoara-1	Demersal Trawler	42	FV Labiba	Mid-water Trawler	67	FV Mahiswar-2	ST	91	FV Rahmat	ST			
18	FV Ayub Monoara-2	Squid Jigger	43	FV Chitragram	FT	68	FV Moitry T	ST	92	FV Garib-E-Newz	ST			
19	FV Bata	FT	44	FV Comilla	FT	69	FV Moitry S	ST	93	FV Nabi	ST			
20	FV Taposi	FT	45	FV Dhaka	FT	70	FV Frindship-1	ST	94	FV Main	ST			
21	FV Meritime-1	FT	46	FV BMT-2	FT	71	FV Frindship-2	ST	95	FV Mita	ST			
22	FV Meritime-2	FT	47	FV BMT-9	FT	72	FV Deep Sea-1	ST	95	FV Bandhan	ST			
23	FV Meritime-5	FT	48	FV Chandana	FT	73	FV Deep Sea-2	FT	97	FV Jauthazatra	ST			
24	FV Peninsula-1	FT	49	FV Universal-4	FT	74	FV Deep Sea-3	ST	98	FV Jauthauddam	ST			
25	FV Peninsula-2	Demersal Trawler	50	FV Zinia	Demersal Trawler									



3.0 India

Since time immemorial fish has constituted an affordable and rich source of protein for people in many parts of India. It is still cheaper than other sources of animal protein available in the country. Fishery is also the sole source of livelihood of more than 14 million fisherfolk. The country has a long coastline of 8 046 km and a continental shelf area amounting to 5 30 000 sq. km of which 71 percent area is in the Arabian Sea (west coast) and the remaining 29 percent in the Bay of Bengal (east coast). After declaration of the EEZ in 1977, the area available to India is estimated at 2.02 million sq. km, comprising 0.86 million sq. km on the west coast, 0.56 million sq. km on the east coast and 0.60 million sq. km. around the Andaman and Nicobar Islands.



The fisheries sector occupies a very important place in the socio-economic development of India. Starting as a purely traditional activity in the fifties, it now has great commercial potential, contributing 1.07 percent to the total GDP and 5.84 percent to the GDP from agriculture, forestry and fishing.

3.1 The marine fisheries sector of India

The Ministry of Agriculture, Government of India, in 2001 estimated the potential yield from the marine waters to be 3.92 million tonnes. The major share of resources lies within 0-50m depth and the zone is over-crowded. Marine waters of India harbour around 1 707 species of fish, of which over hundred species are commercially harvested. Time-series catch composition of marine fishery shows considerable variation through the period 1950-2006. These changes are: (1) increase in number of species harvested/ caught, 2) changes in catch composition, and (3) decline in population of some species. Broadly speaking, during the 1950s and 1960s, Indian oil sardines, natantian decapods, mackerels and Bombay duck constituted the majority (more than 1/3rd) of the landings, but since 1970s, the share of Bombay duck in catch composition has declined steadily. The share of other dominant species such as clupeids and hair tails also declined considerably during the period 1950-2005. On the other hand a phenomenal rise in landing of prawns, shrimps and other marine crustaceans took place during the same period (**Figure 3**).

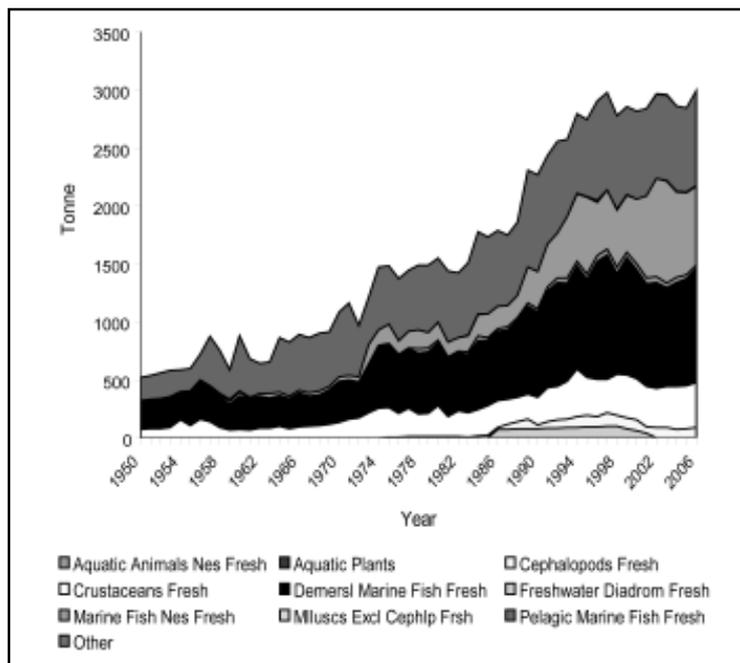


Figure 3: Species-wise fish landings in India (1950-2006)

As per the National Marine Fisheries Census conducted in 2005, the marine fishing fleet comprises 243 939 fishing craft of which 184 196 are of traditional types (including 76 748 motorized traditional craft) and 59 743 mechanized craft (**Table 6**). The mechanized fishing fleet (excluding the Islands) comprises 29 241 trawlers, 983 purse seiners, 14 183 gill-netters, 8 862 *dol*-netters, 1 190 liners and 4 452 other types of boats.

**Table 6: State-wise detail of fishing vessels in India
(National Marine Fisheries Census, 2005)**

Sl. No	State/ Union Territory	Mechanized vessels	Motorized vessels	Non-motorized vessels	Total
1	West Bengal	6 829	1 776	10 041	18 646
2	Orissa	3 577	4 719	15 444	23 740
3	Andhra Pradesh	2 541	14 112	24 386	41 039
4	Tamil Nadu	7 711	22 478	24 231	54 420
5	Puducherry	627	2 306	1 524	4 457
6	Kerala	5 504	14 151	9 522	29 177
7	Karnataka	4 373	3 705	7 577	15 655
8	Goa	1 087	932	532	2 551
9	Maharashtra	13 053	3 382	7 073	23 508
10	Gujarat	13 047	7 376	3 729	24 152
11	Daman & Diu	562	654	211	1 427
12	Andaman & Nicobar Islands	165	781	1 837	2 783
13	Lakshadweep	667	376	1 341	2 384
14	India	59 743	76 748	107 448	243 939

As seen from the number of traditional craft and small mechanized vessels, the major fishing activities are still concentrated in areas within the 0 to 50 meter depth zone. Traditional craft (including motorized) have a higher concentration on the east coast (about 57 % of the total) than the west. For mechanized vessels, the reverse is true. The scale of mechanization is also reflected in the total fish landings of the two coasts.

At the national level, the mechanized sector contributes about 67 percent of the landings. In 1969 it was a mere 20 percent. The motorized sector contributes about 25 percent and traditional crafts account for the balance 8 to 10 percent. With the advent of mechanization, use of traditional harvesting gear like bag net, cast net and small meshed gill net has declined and more efficient gear like purse seines have become popular.

3.2 Fisheries governance and administration

As defined by the Indian Constitution, both the Central and State Government agencies manage fisheries activities. Entry 57 of List 1 of Seventh Schedule of the Constitution of India specifies *Fishing and Fisheries beyond Territorial Waters* as a Union subject, whereas Entry 21 of List II speaks of fisheries as a State subject. Reading both the entries together, it follows that control and regulation of fishing and fisheries within territorial waters is the exclusive province of the State, whereas beyond the territorial waters, it is the exclusive domain of the Union. While at the Central-level, the Department of Animal Husbandry, Dairying and Fisheries (DAHD&F) in the Ministry of Agriculture is the focal point, in the States/ UTs, it is the Department of Fisheries (DoF). Other Central Ministries/ Departments like the Ministry of Commerce and Industry (MoCI), Ministry of Earth Sciences (MoES), Ministry of Food Processing Industries (MoFPI) and the Ministry of Environment and Forests (MoEF) play important roles in various aspect of fisheries resources management. At the national level, the Ministry of Defence (MoD) through the Indian Coast Guard (ICG) is associated with the surveillance of fisheries in the EEZ.

The Indian Parliament enacted the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Acts in 1976, which paved the way for establishment of a 200 nautical mile (nm) EEZ effective from January 15, 1997. Since then, India has also enacted a number of other laws and regulations, which have bearing on the sustainable exploitation of the marine fisheries resources in the Indian EEZ. These broadly include the Indian Coast Guard Act, 1978; the Maritime Zones of India (Regulation of Fishing

by Foreign Vessels), Act, 1981 and the related Rules of August, 1982; the Environment Protection Act, 1986, etc. The other Central legislations which have an important bearing on fisheries include the Merchant Shipping Act, 1958; the Marine Products Export Development Authority Act, 1972; the Wildlife (Protection) Act, 1972; and the Biological Diversity Act, 2002.

The EEZ provisions are quite comprehensive and provide the basis for India to exercise control over the zone for the purposes of international law. In particular, it may be noted that it provides for exercising the following rights:

- (a) Sovereign rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living as well as for producing energy from tides, winds and currents;*
- (b) Exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution; and*
- (c) No person (including a foreign Government) shall, except under, and in accordance with, the terms of any agreement with the Central Government or of a licence or a letter of authority granted by the Central Government, explore or exploit any resources of the EEZ or carry out any research or excavation or conduct any research within the EEZ or drill therein or construct, maintain or operate any artificial island, off-shore terminal, installation or other structure or device therein for any purpose whatsoever: Provided that nothing in this sub-section shall apply in relation to fishing by a citizen of India.*

Further to the above stated provision in the legislation, there is still no dedicated law to regulate wholly Indian-owned fishing vessels operating in the EEZ.

The Coast Guard Act, 1978 provides the basic framework for a surveillance and control mechanism for Indian marine waters as specified under the other Acts. The Act specifies that the duty of the Coast Guard is *to enforce the provisions of such enactments as are for the time being in force in the maritime zones.*

Reading this with the provisions made under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Acts, 1976 and the MZI Act, 1981, the Coast Guard is responsible for controlling foreign fishing vessels and their activities in the Indian marine waters.

The Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 specifies the following measures with regard to fishing in the Indian maritime zone:

- No foreign vessel without a permit or licence from the Central Government can undertake fishing in the Maritime Zones of India as per the Act.
- A person holding a licence under this section shall ensure that every person employed by him complies in the course of such employment, with the provisions of this Act, or any rule or order made there under and the conditions of such licence.
- Indian nationals employing a foreign vessel also need a licence or permit under the Act to operate in Maritime Zones of India.
- The Central Government reserves the right to suspend or cancel the licence if it finds any breach in conduct as per the provisions of the Act.
- The Coast Guard is authorized under the Act to stop or board a foreign vessel in any Maritime Zone of India and search such vessel for fish and for equipment used or capable of being used for fishing and check their licence and/ or other necessary documents and conduct enquiries pertaining to the upholding of the provisions of the Act.
- In case the investigating Coast Guard officer has any reasonable doubt that the vessel is breaching the Act, it may seize the boat/ gear and arrest the crew if necessary.

The Merchant Shipping Act, 1958 (MS Act, 1958) was enacted to foster the development and ensure the efficient maintenance of an Indian mercantile marine in a manner best suited to serve the national interests. The MS Act, 1958, was amended in 1983 (Amendment Act 12 Of 1983) to provide for registration and

control of Indian fishing boats to give effect to the recommendations of the fisheries enquiry committee. A new Part XV-A was added to the Act and Section 435-B defines an Indian fishing boat as follows:

(a) every fishing vessel, fitted with mechanical means of propulsion, which is exclusively engaged in fishing for profit;

(b) every sailing vessel, whether or not fitted with mechanical means of propulsion, solely engaged in fishing for profit;

(c) every boat or craft of any other type used solely for fishing which the Central Government may, by notification in the Official Gazette, specify to be a fishing boat for purposes of this section, which is owned wholly by persons to each of whom any of the descriptions specified in clause (a) or in clause (b) or in clause (c), as the case may be, of Section 21 applies or which satisfies such other requirements as the Central Government may, by notification in the Official Gazette, specify.

The MS Act, 1958 under section 435-C of Part XV-A further specifies that every Indian fishing boat shall be registered under the Act. **Table 7** provides the summary of major Indian Acts concerning the marine fisheries sector enacted by the Central Government.

The Marine Fishing Regulation Act (MFRA) enacted by all the coastal States/ UTs came as a response to the growing conflicts in the coastal waters. Realizing the problem, the Central Government prepared a model Bill which was circulated to the coastal States/ UTs in 1979, paving the way for enactment of the MFRAs. The MFRAs have provisions for regulating fishing and conservation measures in the territorial waters. These include regulation of mesh size to avoid catch of juvenile fish; maximum-minimum fish sizes; regulation of gear to avoid over-exploitation of certain species; reservation of zones to provide exclusive rights to traditional fishermen to fish unhindered in near-shore areas; and also for declaration of closed seasons during the fish breeding period to avoid catching of young juvenile fish. The other important aspects include vessel movement control, vessel inspection, registration and licence and colour coding.

3.3 Scope of traceability

The traceability of fish and fish products in India is limited to the health and safety aspects of the products. The Export (Quality Control and Inspection) Act, 1963 (No. 22 of 1963) provides for the development of the export trade of India through quality control and inspection and for matters connected therewith. 'Quality control', means any activity relating to determination of the quality of a commodity (whether during the process of manufacture or production or subsequently) in order to ascertain whether it satisfies the standard specifications applicable to it or any other specification stipulated in the export contract and whether it may be accepted for purposes of export.

The Export Inspection Council (EIC) was set up by the Government of India under Section 3 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), in order to ensure sound development of export trade of India through Quality Control and Inspection and for matters connected thereof. EIC is an advisory body to the Central Government, which is empowered under the Act to:

- *Notify commodities which will be subject to quality control and/ or inspection prior to export;*
- *Establish standards of quality for such notified commodities; and*
- *Specify the type of quality control and/ or inspection to be applied to such commodities.*

Besides its advisory role, the EIC also exercises technical and administrative control over the five Export Inspection Agencies (EIAs), one each at Chennai, Delhi, Kochi, Kolkata and Mumbai established by the Ministry of Commerce, Government of India, under Section 7 of the Act for the purpose of implementing the various measures and policies formulated by the Export Inspection Council of India.

The EIC, either directly or through its field organization, the Export Inspection Agencies, renders services in the areas of: (1) Certification of quality of export commodities through installation of quality assurance systems in the exporting units as well as through consignment-wise inspection; (2) Certification of quality of food items for export through installation of a Food Safety Management System in the food processing units; and (3) Issue of certificates of origin to exporters under various preferential tariff schemes for export products.

Table 7: Summary of major acts enacted by the Central Government

Name of the Act	Main objective	Provisions	Main implementing agency	Fisheries management
The Merchant Shipping Act, 1958	To foster development and ensuring an efficient maintenance of an Indian mercantile marine.	<ul style="list-style-type: none"> • Registration. • Setting up of National Shipping Board. 	Ministry of Shipping, Road Transport and Highways	<ul style="list-style-type: none"> • Defining a fishing vessel. • Registration procedure. • Provision for data collection
The MPEDA Act, 1972	To promote export of fisheries products.	<ul style="list-style-type: none"> • Collection of information on fish production, etc. 	Ministry of Commerce and Industry	<ul style="list-style-type: none"> • Undefined area. • Licensing. • Basic focus on controlling of fish export and quality control in respect of exported fish and export promotion.
The Wildlife (Protection) Act, 1972	To protect wildlife.	<ul style="list-style-type: none"> • Setting up of sanctuaries and marine parks. 	Ministry of Environment & Forests	<ul style="list-style-type: none"> • Restriction on hunting of several species of mammals, fish, coral, sponge, turtle, etc.
The Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976	To establish sovereignty over the Indian maritime zone.	<ul style="list-style-type: none"> • To ensure national security. • To facilitate exploitation and other economic uses of the Indian maritime zone. 	Ministry of External Affairs	<ul style="list-style-type: none"> • Licensing. • Establishment and division of maritime zones into four areas.
The Coast Guard Act, 1978	To establish the Coast Guard.	<ul style="list-style-type: none"> • National security. • Protection of national interest. • Safety at sea. 	Ministry of Defence	<ul style="list-style-type: none"> • Establishment of control and surveillance measures. • Establishment of search and rescue measures.
The Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981	To control activities of foreign fishing vessels within Indian maritime zone.	<ul style="list-style-type: none"> • Basis for joint ventures and chartered vessels. • Basis for bilateral/multilateral fishing access agreements. 	Ministry of Agriculture	<ul style="list-style-type: none"> • Permit fishing by foreign vessels through licensing.
The Biological Diversity Act, 2002	To protect biological diversity of India.	<ul style="list-style-type: none"> • Setting up of National and State Biodiversity Boards. 	Ministry of Environment & Forests	<ul style="list-style-type: none"> • Encourages conservation. • Provision to declare a fish stock threatened if it is overexploited.

Apart from the EIC, the Marine Product Export Development Authority certifies the trawls using the Turtle Exclusion Device (TED), as required by some countries importing fish and fish products from India.

3.4 State of MCS activities in Indian waters

Shore-based monitoring: The DoF of the State Governments is responsible for shore-based monitoring. For this purpose, the DoF has field-level officers (*e.g.* District Fisheries Officers and Fisheries Inspectors) who are in-charge of monitoring fish landings in fishing harbours and fish landing centers. However, given the dispersed nature of capture fisheries (**Table 8**), inadequate deployment of manpower and insufficient budgetary provisions for such purposes, shore-based monitoring is weak and largely ineffective.

Table 8: States, coastlines, fish landing centers in India

State/ U.T	Coastal length (km)	Number of landing centres	Number of fishing villages
West Bengal	158	44	346
Orissa	480	57	641
Andhra Pradesh	974	271	498
Tamil Nadu	1 076	352	581
Puducherry	45	26	28
East Coast	2 688	750	2 094
Kerala	590	178	222
Karnataka	300	88	156
Goa	104	34	39
Maharashtra	720	152	406
Gujarat	1 600	123	263
Daman & Diu	27	7	22
West Coast	3 314	582	1 108
Andaman and Nicobar	1 912	25	100
Lakshadweep	132	19	20
Islands	2 044	44	120
India	8 118	1 376	3 322

Source: National Marine Fisheries Census, 2005 and Hand book of Fisheries Statistics, 2006.

At-sea monitoring: The Indian Coast Guard is primarily responsible for monitoring of the EEZ. As such there is no mechanism for monitoring the territorial waters which come under the jurisdiction of coastal States/ UTs. Since its inception in 1978, the Coast Guard has apprehended over 1 200 fishing vessels belonging to nine Asian countries for violation of the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981. However, since the MFRAs enacted by the coastal State/ UT Governments do not authorize the Coast Guard to undertake MCS function in the territorial waters, there is hardly any organized monitoring or surveillance activity undertaken by the Coast Guard in the territorial waters of the country. In recent years, some coastal States have set up marine police to monitor the coastal waters. However, the scope and extent of their functions is yet to assessed.

3.5 Impact of EU-IUU Regulation on India

The fisheries export of India mainly comprises frozen shrimps and prawns, frozen marine fish, frozen hairtails, frozen squids, live, fresh or chilled cuttlefishes, prepared or preserved shrimps, prawns (not mentioned earlier), frozen coastal fishes, frozen crab meat, and frozen diadromous fishes. These products together comprise about 83 percent of the total exports in quantity terms and 88 percent of total exports in value terms (**Table 9**).

Table 9: Top 10 exported fish products from India (2000-06)

Commodity	Total exports during 2000-06 in quantity (tonnes)	Share in total exports during 2000-06 in quantity (%)	Share in total exports during 2000-06 in value (%)	Whether covered by EU-IUU regulation
Shrimps and prawns, frozen, <i>nei</i>	1 048 823	29.60	57.95	Y
Marine fish, frozen, <i>nei</i>	610 012	17.22	7.52	Y
Hairtails, frozen	511 054	14.42	4.62	Y
Squids <i>nei</i> , frozen	209 313	5.91	4.22	Y
Cuttlefishes, live, fresh or chilled, <i>nei</i>	192 908	5.44	4.20	Y
Shrimps, prawns, prepared or preserved, <i>nei</i>	115 103	3.25	3.77	Y
Miscellaneous coastal fishes, <i>nei</i> , frozen	77 858	2.20	2.26	Y
Marine fish <i>nei</i> , minced, prepared or preserved	68 154	1.92	1.71	Y
Crab meat, frozen	62 027	1.75	1.00	Y
Miscellaneous diadromous fishes, <i>nei</i> , frozen	55 858	1.58	0.78	Y
Total share		83.29	88.03	

Source: FAO FISHSTAT Database

During the same period (2000-06), the total export of various fish and fish products from India to EU-27 has increased nearly two-fold from 69 015 tonnes to 142 736 tonnes (*Figure 4*). As the figure shows, there is considerable increase in the share of EU in the total export of fish and fishery products, and it is emerging as an important and growing market for India. The ongoing trade negotiations between EU and India are therefore significant.

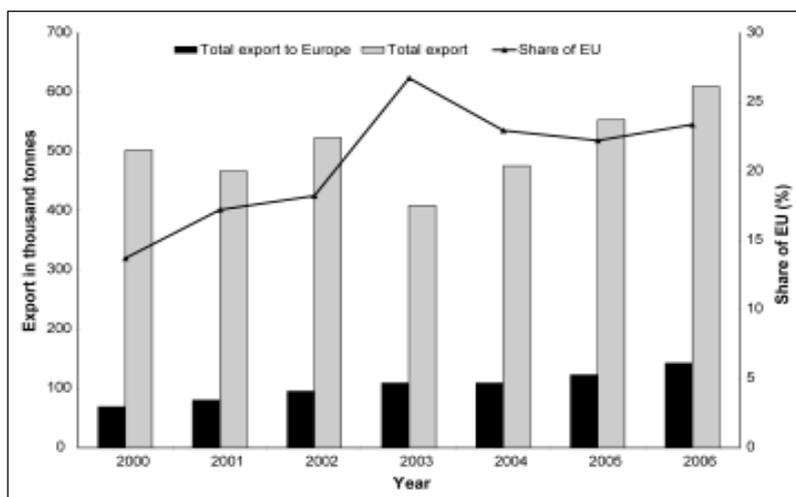


Figure 4: EU-India fisheries trade (2000-06)

3.6 Summation

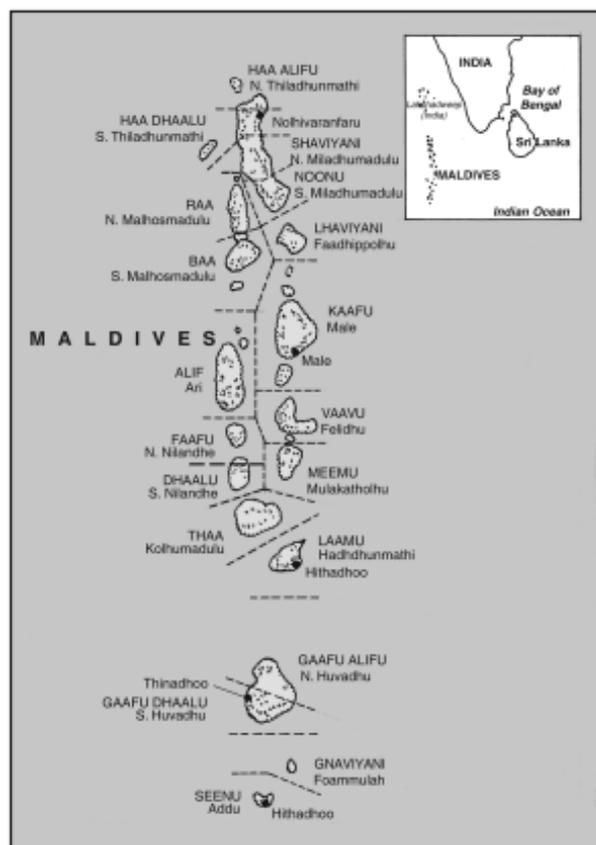
Summing up, multiple constitutional authorities, dispersed fisheries and a large resource base are acting both as a potential and problem for Indian fisheries. Due to the federal structure of fisheries governance, it is not possible to pinpoint a particular authority for MCS in the marine fisheries sector. While in an ideal situation the responsible agencies should have cooperated with each other at the state and at the centre, such a regime is yet to evolve. In terms of EU-IUU regulation, this can be interpreted as a mammoth task to set up a convincing traceability mechanism. While EIC is prima facie responsible for dealing with the requirements of EU-IUU Regulation, in practice this seems very difficult due to their limited field presence. However, in the short-term it may be advisable to use the supply network of exporters to ensure traceability of the products meant for shipment to EU. As regards validation of the certificates, the use of more than one public authority (EIC, MPEDA and DoF of the State / UT Governments) may be necessary to meet the requirements.



4.0 Maldives

Maldives is an archipelago of nearly 1 200 coral islands grouped into 19 widely dispersed atolls covering an area of nearly 90 000 km² in the centre of the Indian Ocean. The country's EEZ covers an area of nearly one million km². Marine resources are the country's main natural endowment with economic activities concentrated on fishing and tourism. Currently, fisheries account for 4.72 percent of GDP (at constant prices in 2008), 7.61 percent of employment (2006 census) and 98 percent of the country's export commodities (in value terms - 2007).

Although the fishing industry is the sixth highest employer at the national level, it remains the third major economic activity in the atolls, providing livelihoods for the majority of the atoll population. Next to tourism, it employs the second highest number of males (19% of employed males). The fishing industry in the country operates as a small-scale (informal) enterprise. A majority of the fishers (88%) have no fixed location of work as they operate from fishing vessels out at sea. Over a third of the fishers (36%) operate as group workers, around one fourth as own-account workers and contributing family workers. Only 16 percent of the fishermen work as employees. Other primary industries: agriculture and sand mining also have similar attributes in terms of the informal nature of operation¹².



4.1 The marine fisheries sector of Maldives

Tuna comprises the main traditional fishery of the Maldives. The fishery mainly targets skipjack tuna, *Katsuwonus pelamis*, and is carried out using pole and line. The total reported tuna catches at present are estimated at 170 000 mt, of which 80 percent is skipjack tuna followed by yellowfin tuna (*Thunnus albacares*). Other coastal varieties, frigate tuna (*Auxis thazard*) and kawakawa (*Euthynnus affinis*) are caught in small quantities; <5 percent at present (Figure 5). Roughly a third of this catch is consumed locally and the rest is exported in canned, fresh/chilled, frozen, dried, and other forms. The total export earnings in recent years were in excess of US\$ 100 million. Decline in tuna catches in 2007 and 2008 have raised concerns about the status of the stock. Stock assessments undertaken by the Indian Ocean Tuna Commission (IOTC) have

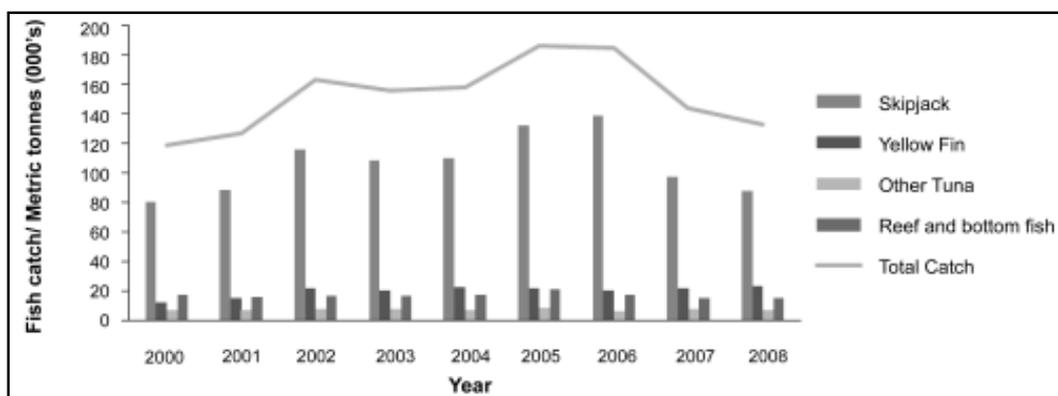


Figure 5: Growth of marine capture fisheries in Maldives (2000-08)

¹² Quoted from Census Analysis, 2006 - Labour Force and Employment - Ministry of Planning and National Development, Analytical Report, 2006 (<http://planning.gov.mv/en/images/stories/publications/analysiscd/index.html>).

shown that current Indian Ocean catches are more than the replacement yield of the stock. For skipjack no assessment has so far been done. More recently, the reef fishery and the grouper fishery has started playing a bigger role in the fisheries industry. The grouper fishery is export-market driven, while the reef fishery caters to the expanding tourism industry of the Maldives. Sharks fishery also used to be a large fishery in Maldives. However, from 01 March 2009, the Ministry of Fisheries and Agriculture (MoFA) has imposed a ban on reef shark fishery. It is also proposed that from 10 March 2010, this ban will be extended to all sharks in the Maldivian waters and also on export of sharks from Maldives. The total fishery production in Maldives as a result of these changes is not progressing smoothly. It has increased from (in '000 mt) 127.2 in 2001 to 163.4 in 2002 and 184.2 in 2006 while in between it has declined to 155.4 in 2003 and 143.6 in 2007 (**Figure 5**).

Maldives uses six types of fishing vessels: mechanized Masdhoni, sailing Masdhoni, mechanized Vadhu, sailing Vadhu, trolling vessels and rowing boats. At present, mechanized Masdhonis constitute 91 percent of engaged vessels. Trolling vessels are not in vogue. The number of trips made by the fishing vessels has also come down from 1 89 941 for mechanized Masdhoni in 2005 to 1 72 025 trips in 2007. On the other hand, between 2005 and 2007, the catch per unit of effort (CPUE) has increased from 948 kg to 1 622 kg for Masdhonis and from 91 kg to 153 kg for sailing Masdhonis. Overall, the average CPUE has increased from 273 kg for all boats to 522.4 kg for all boats during 2005-2007 – an increase of 91 percent (**Figure 6**). The highest increase in CPUE is observed in rowing boats (222%) and sailing Masdhonis (153%).

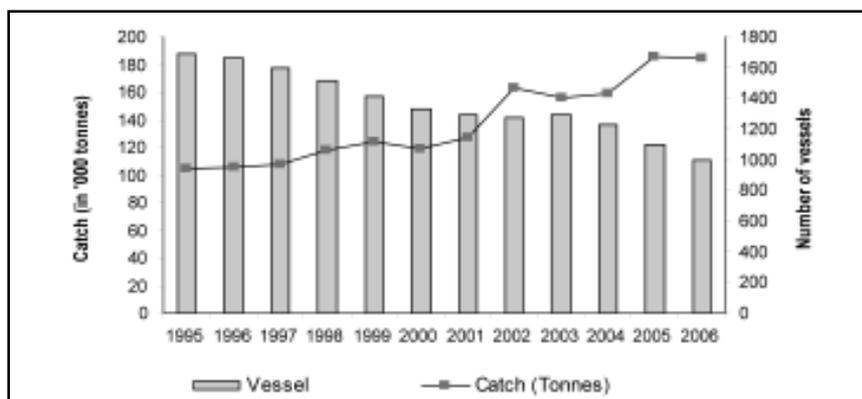


Figure 6: Catch-effort dynamics in Maldives (1995-2006)¹³

The increasing fishing power and efficiency of fishing vessels has resulted in increased catches of both skipjack and yellowfin. Skipjack CPUE has increased almost consistently in recent years; from about 270 kg/ day in 1997 to over 600 kg/ day during 2006. Yellowfin CPUE has been also being increasing from 50 kg/ day in 2000 to over 100 kg/day in 2006. Apart from this, a foreign licenced longline fleet operates in the EEZ of the Maldives (75 miles and beyond). About 40 vessels are licenced to operate in the EEZ, although the numbers that actually operated in recent years may be lower.

Almost the entire catch comes from within a radius of 75 miles of the islands, an area reserved for the local fishers. The EEZ contributes only 2 percent of the catch (2007), which largely comprises yellowfin tuna. However, in 2008 the contribution of this catch declined to one percent (**Figure 7**). In terms of fishing methods, pole & line accounts for 88 percent of the landings, followed by hand line and trolling. Pole and line fishing vessels operate mainly around the fish aggregating devices (FADs) fixed at about 12 miles from the atoll rims. Depth at these locations varies from 2 000 to 3 000 meters. Occasionally, tuna fishermen also fish the free-swimming tuna schools. In terms of fishing vessels, mechanized Masdhonis accounted for about 97 percent of the landings in 2007 (**Figure 8 & Table 10**).

Apart from the above fishing fleet, five companies are licenced under the Skipjack Investment Programme (SIP) of the Government of Maldives to collect fish from four zones in the Maldives. These companies have

¹³ Source: Key indicators for the past 10 years retrieved from [http://planning.gov.mv/yearbook2008/keyindicators/Fisheries and Agriculture.htm](http://planning.gov.mv/yearbook2008/keyindicators/Fisheries%20and%20Agriculture.htm) and Fisheries and Agriculture (Table 9.3 to 9.7), Statistical Yearbook of Maldives 2008 (retrieved from <http://planning.gov.mv/yearbook2008/yearbook.html>)

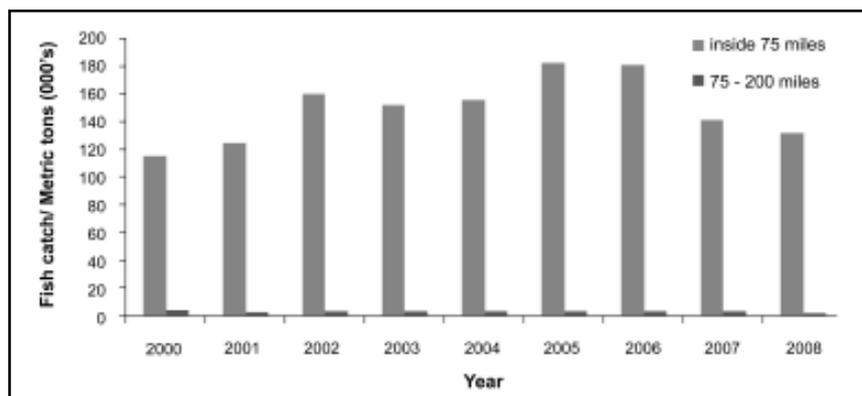


Figure 7: Zone-wise landings in Maldives

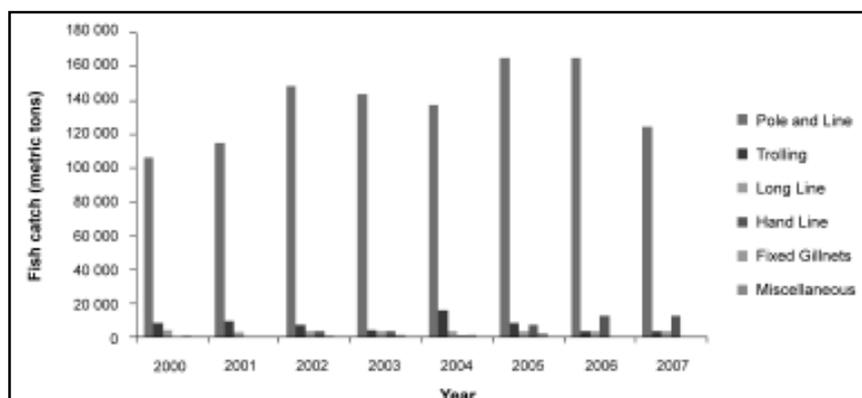


Figure 8: Gear-wise landings in Maldives

Table 10: Landing by gear and vessel types in Maldives

Fishing method	Total landings 2008 (in tonnes)	Share in total landings (%)
Pole & line	1 17 363	88.19
EEZ	1 350	1.02
Fixed gillnets	111	0.08
Handline	9 350	7.03
Long line	295	0.22
Trolling	4 606	3.46
Total	1 33 075	100.00
Fishing vessel	Total landings 2008 (in tonnes)	Share in total landings (%)
Mechanized Masdhoni	1 37 931	96.71
Sail Masdhoni	232	0.16
Rowing Boats	1 082	0.76
EEZ	3 048	2.14
Miscellaneous	329	0.23
All Vessels	1 42 622	100.00

exclusive rights to purchase and collect fish from the zones assigned to them under the agreement. Under the SIP, these companies are required to deploy collector vessels at locations of their own choice within their respective zones. However, the number of collector vessels deployed might vary according to seasons and fish catch at any given time. In 2008, the following five companies were involved in the collection programme: (1) Maldives Industrial Fisheries Company (777 mt per day); (2) Horizon Fisheries Private Limited (950 mt per day); (3) Funaddoo Tuna Products (80 mt per day); (4) Island Enterprises Private Limited (692 mt per day) and (5) Eco Fisheries International Private Limited (179 mt per day). The figures in parentheses denote the per-day collection capacity of the vessels deployed by the companies.

4.2 Fisheries governance and administration

The legal framework for the present fisheries management system is based on:

- (i) the Constitution of the Republic of Maldives;
- (ii) official mandates of relevant government agencies, and
- (iii) relevant laws, regulations, decrees and guidelines.

The Maritime Zones of Maldives Act No. 6/96 sets out the basis for Maldives to exercise sovereignty, sovereign rights and jurisdiction over its maritime zones. The Act also sets out the basis for the archipelagic claim by Maldives defined with reference to geographical coordinates and set out in the Annex to the Act. It also sets out the basis for the claim to the territorial sea, the contiguous zone and the EEZ of Maldives. Section 9 of the Act sets out the rights of Maldives in the EEZ. It states “*sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources contained therein, whether living or non-living, and with regard to other activities for purposes of the economic exploitation of the zone. Economic exploitation of the natural resources found in the zone by persons other than nationals of Maldives or the conduct of scientific research within the zone as well as the construction, operation and use of any artificial island installation or structure within the zone for any of the foregoing purposes shall be subject to authorization from the Government of Maldives.*”

The main law regarding fisheries is the Fisheries Law of the Maldives, 1987 (No. 5/87). The Fisheries Law provides a very basic framework for the control of fishing in the marine waters of Maldives. While ‘fisheries’ in the Act is primarily defined for the EEZ, the note accompanying the definition of fisheries proclaims that in the Act (Section 2): “ ‘seas’ in this law means the high seas and the waters inside the atolls and includes lagoons, shallow water areas and reefs”. Section 3 of the Act empowers the MoFA to establish and administer regulations for sustainable utilization and conservation of fish stocks and living marine resources, including protecting threatened species and establishing conservation areas. In addition, it describes the conditions for licensing of foreign vessels or joint ventures in the EEZ, provides for apprehension of vessels, arrest and penalties, and describes the Coastal Fishery Zone (CFZ).

The Fisheries Act is supplemented by regulations, rules, and Presidential decrees. Various MoFA regulations include: regulations on fishing in lagoons; prohibitions on fishing; banned fishing gear and methods; protected marine life; protection of certain species from harvest; prior permission required for non-traditional gear; reporting violations of Fisheries Act and regulations; reporting of all fish catch and effort; issuing of licences to fish in the Maldivian EEZ; description of licence issuance by Ministry of Economic Development and Trade (MEDT) and requirements for vessels licenced to fish in the EEZ; marine scientific research in Maldivian waters; requirements for vessel-based research operations; catch and export of yellowfin/ bigeye tuna; installation of fish cages and culture in fishing lagoons; and installation of FADs on fishing grounds.

Other relevant regulations under other laws and decrees include: protection of species by banning export; declaration of marine protected areas and export quotas of selected species.

The Environment Protection and Preservation Act of the Maldives (Act No. 4/93) and its supporting regulations provide a second tier of controls in marine resources management. The Act recognizes that protection and preservation of land and water resources, flora and fauna, and all natural habitats are important for the country’s sustainable development.

The MoFA is the lead agency tasked with fisheries management and development. The mandate of MoFA includes:

- Formulation and enforcement of laws, regulations and policies required for sustainable development of fisheries and marine resources, including those relating to Maldivian faros, reefs and lagoons;
- Formulation and implementation of policies and strategies required for sustainable development of fisheries, agriculture and marine resources of the nation;
- Protection and conservation of marine and terrestrial biodiversity of the nation;
- Collection, processing and publication of fisheries and marine resources data and statistics;
- Protection of endangered species;
- Development and installation of fish aggregating devices (FADs);
- Formulation and implementation of development projects which enhance the socio-economic standard of the people;
- Resources monitoring and conduct of multi-disciplinary research;
- Collection, cataloguing and maintenance of samples of marine and terrestrial biodiversity of the nation; and
- Formulation and implementation of regulations on scientific exploration and research in Maldivian waters, seas, seabed, sub-soil and soil.

With regard to high-level policy advice and coordination with other Ministries, MoFA is supported by the Fisheries Advisory Board (FAB) comprising MEDT, Ministry of Housing, Transport and Environment, Maldives National Defense Force (Coast Guard), Maldives Customs Service, Maldives Food and Drug Authority and Ministry of Tourism. The FAB is chaired by the Minister of Fisheries and Agriculture and reports to the President.

The MEDT is responsible for licensing of all commercial fishing vessels including foreign fishing vessels. It also determines the numbers of licences to be issued and the negotiations and other dealings with licences. The Ministry also issues export permits for the local tuna and reef fish trade.

Presently, the law requires 'once in a lifetime' registration of fishing vessels in Maldives. If vessel owners register their fishing vessels and go out for fishing for 120 days, they are exempted from the licensing fees paid to the Ministry of Transportation. A new licensing scheme is now under development and will be implemented from November 2009. According to the new scheme, the Atoll Offices and Island Offices would issue licences and report to the MoFA through an online database. The licences would be issued for a specific fishery and for a specific period.

Maldives has declared 25 Protected Areas, which are solely meant for diving purposes. Anchoring (except in an emergency), coral or sand mining, waste disposal, removal of any natural object or living creature, fishing of any kind (example: for sharks, reef or aquarium fish) with the exception of traditional live bait fishing, capturing of birds, and any activity which may cause damage to the area or its associated marine life are prohibited in these areas. Few mangrove habitats are also protected, but the main purpose has been to protect birds and swamps not meant for fisheries.

The Law prohibits use of dynamite or explosives to catch fish, use of spear guns and use of poison to harvest fish. Further, nine species have been protected under the law: dolphins, whales, berried lobsters and lobsters smaller than 25 cm, triton, giant clam, black coral, whale shark, Napoleon wrasse and turtles and turtle eggs. Apart from this ban, there is no other restriction like mesh size regulation or legal harvestable fish size in Maldives.

4.3 *Status of MCS and scope of traceability*

MCS in the Maldives is carried out by many institutions. The MoFA has the overall mandate to manage marine resources, while the Coast Guard of the Maldives National Defense Force carries out monitoring of EEZ vessels and surveillance of the EEZ. MoFA monitors and controls the fishing fleet with close collaboration with Province offices that facilitate all the reporting (fish catch, fishing activities, fishing vessel registration,

infringements, etc). Given the widely spread geographical nature of islands, a centrally operated MCS is a hurdle to fisheries management. Careful devolution of authority and responsibility for MCS is one of the options which Maldives is currently working on.

Maldives also uses a Vessel Tracking System (VTS) for all vessels licenced to operate in the outer EEZ (the zone between 75 and 200 nm). The VTS, established in 1995, is monitored by the Maldivian Coast Guard on a regular basis. The Coast Guard monitors the movement of licenced fishing vessels in the EEZ of Maldives. This is done by installing necessary vessel tracking transponder equipment on board the vessel, which is mandatory under the Fishing Licence Agreement between the licensee and the Ministry of Economic Development and Trade. Clause 6 of the agreement states that the licensee's fishing vessel shall install the necessary transceiver equipment approved by the government for communication links with the VTS in Malé, before embarking on any fishing operation in the licenced Fishing Zone of the Republic of Maldives. This rule applies to all licenced fishing vessels with the permitted fishing methods (pole and line fishing, long line fishing or trolling) in the Maldives. The same is applied to all licenced fishing vessels where both types of royalties (yearly/ per catch) are imposed.

However, the current VTS has some limitations which pose problems to the Coast Guard in smooth management of the MCS activities. These limitations include:

- This system can only identify vessels with the programmed transponder; vessels without the programmed transponder cannot be identified from this VTS.
- Power failure is frequently reported. Most of the vessels do not have a separate power supply for the transponder unit.
- The main disadvantage is seen as there are no written rules for operating the vessel transponder.

Further, MoFA, jointly with the Maldives Food and Drug Authority is involved in inspection for food safety and meeting export quality standards and issuance of health certificates for seafood products.

Regarding prevention of IUU activities, between 2000 and 2008 Maldives apprehended 28 foreign fishing vessels both from neighbouring countries and distant water fishing nations (or vessels flying flag of convenience - see *Table 11*). The reason for apprehension on all the occasions was illegal fishing in the Maldivian waters without a valid licence¹⁴. For violations by domestic vessels, apprehensions have been few due to lack of information.

Table 11: IUU foreign fishing vessels apprehended in Maldives

	Flag States					Total no. of vessels
	Sri Lanka	India	Brazil	Thailand	China	
2000	-	01	02	02	02	07
2001	-	-	-	-	-	-
2002	01	01	-	-	-	02
2003	09	-	01	-	-	10
2004	-	-	-	-	02	02
2005	-	-	-	-	-	-
2006	-	-	-	-	-	-
2007	05	-	-	-	-	05
2008	-	-	-	-	02	02
Total	15	02	03	02	06	28

¹⁴ Other details of the vessels were not available.

4.4 Impact of EU-IUU on Maldives

At present Thailand is the main trading partner of Maldives, which imports tuna and tuna-like products from Maldives and then re-exports them. Since Thailand is a major trading partner of EU, Maldives is indirectly exposed to the EU-IUU Regulation (**Figure 9**). In this respect, the main responsibility of Maldives lies with the documentation of its catch meant for Thailand and its subsequent export to EU from Thailand. Sri Lanka is the other major partner, but the trade has been declining in recent years.

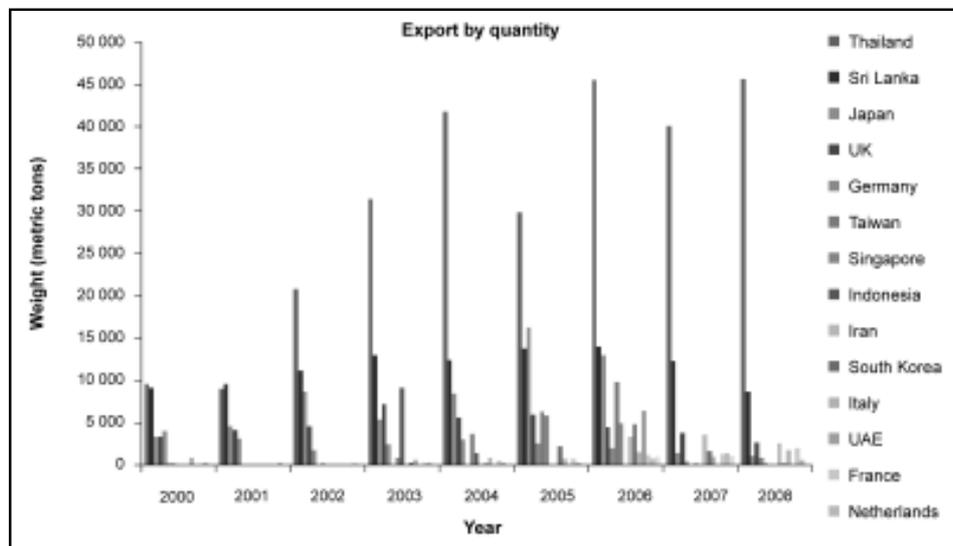


Figure 9: Export of fish and fish products from Maldives by countries

In terms of EU markets, while in 2000 Maldives was exporting to seven EU member-states, it is now trading with 15 member-states. Maldives has been able to expand its market in EU, while keeping the traditional partner (Thailand) intact. Result: between 2000 and 2008, the total value of exports to EU increased from Rf 150.35 million¹⁵ in 2000 to Rf 501.82 million in 2008. Qualitatively, this trade involves 22 products, including live ornamental fishes (**Tables 12, 13 and Figure 10**). Quantitatively also there has been a shift, which is in favour of higher value products. Relatively, the chances of Maldives meeting the requirements of the EU-IUU Regulation are far better than that of other BOBP-IGO member-countries due to the small fleet size (in comparison to the EEZ); a fairly well-established MCS (including VTS for the foreign fishing fleet) and the necessary legislative support, which has provisions for reporting of catch. This situation augers well for Maldives to even expand its trade with EU member-states in the years to come.

Table 12: Export of fisheries products from Maldives

Region/ Country	Quantity exported (in 000 tonnes)		Value (in million Rf)		Realization (Rf per kg of export)	
	2000	2008	2000	2008	2000	2008
European Union	86.61	81.00	150.35	501.82	17.36	61.96
Others	1.70	29.19	3.86	67.73	22.62	23.20
South East Asian Countries	40.19	18.42	117.60	76.08	29.26	41.31
Sri Lanka	91.22	86.20	159.51	153.93	17.49	17.86
Thailand	95.26	456.44	50.34	792.37	5.28	17.36
Total	314.98	671.25	481.66	1 591.93	15.29*	23.72*

* Averages

¹⁵ One US \$ = 12.75 MRf

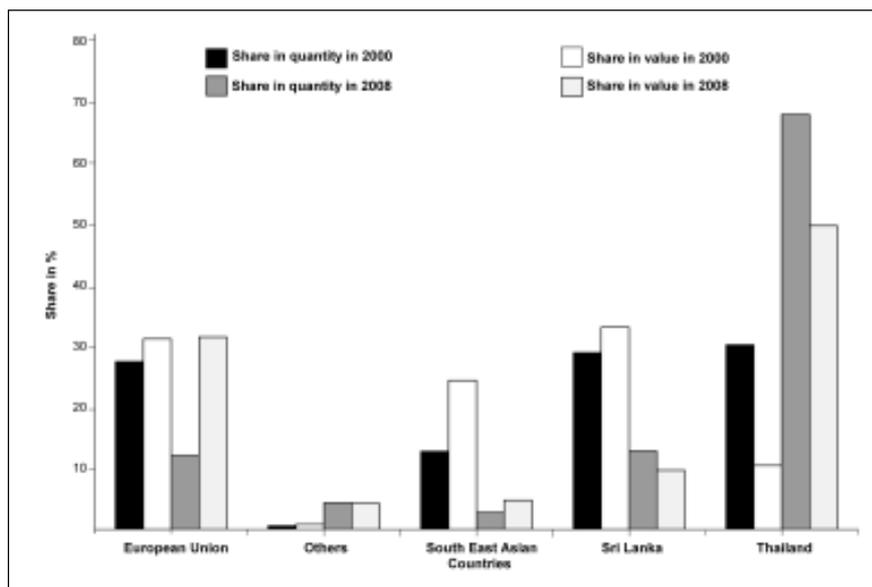


Figure 10: Share of EU and other regions in Maldivian export

Table 13: List of products exported to EU

Product	Whether covered by EU-IUU Regulation
Fresh or chilled bigeye tuna loins	Y
Fresh or chilled bigeye tunas (<i>Thunnus obesus</i>)	Y
Fresh or chilled grouper	Y
Fresh or chilled reef fish	Y
Fresh or chilled reef fish fillet, nes	Y
Fresh or chilled skipjack loins	Y
Fresh or chilled tuna belly flap	Y
Fresh or chilled yellow finned tuna loin	Y
Fresh or chilled yellowfin tuna belly flap	Y
Fresh or chilled yellowfin tuna chunk	Y
Fresh or chilled yellowfin tunas	Y
Frozen fish meat excl. fillet	Y
Frozen yellowfin tuna	Y
Frozen yellowfin tuna belly flap	Y
Frozen yellowfin tuna chunk	Y
Frozen yellowfin tuna loin	Y
Frozen yellowfin tuna steak	Y
Live ornamental fish	N
Prepared preserved skipjack	Y
Prepared preserved tuna	Y
Steamed skipjack loins	Y
Yellowfin tuna loins	Y

Recently a working group set up by MoFA to identify gaps and to formulate procedures for issuing catch certificates agreed that it would be best to go for a licensing scheme for all fishery-related activities (fishing, processing & aquaculture) conducted in the Maldives. The working group also agreed to include more stringent conditions in the licence that would enable receiving information from the fishers on the date and area of fishing and estimated live weight. To meet the new requirements of compulsory licence for all fishing vessels and data reporting, it was decided to amend the existing fisheries regulations. The fish and data flow procedure proposed by the MoFA for catch certification is detailed below in **Figure 11**.

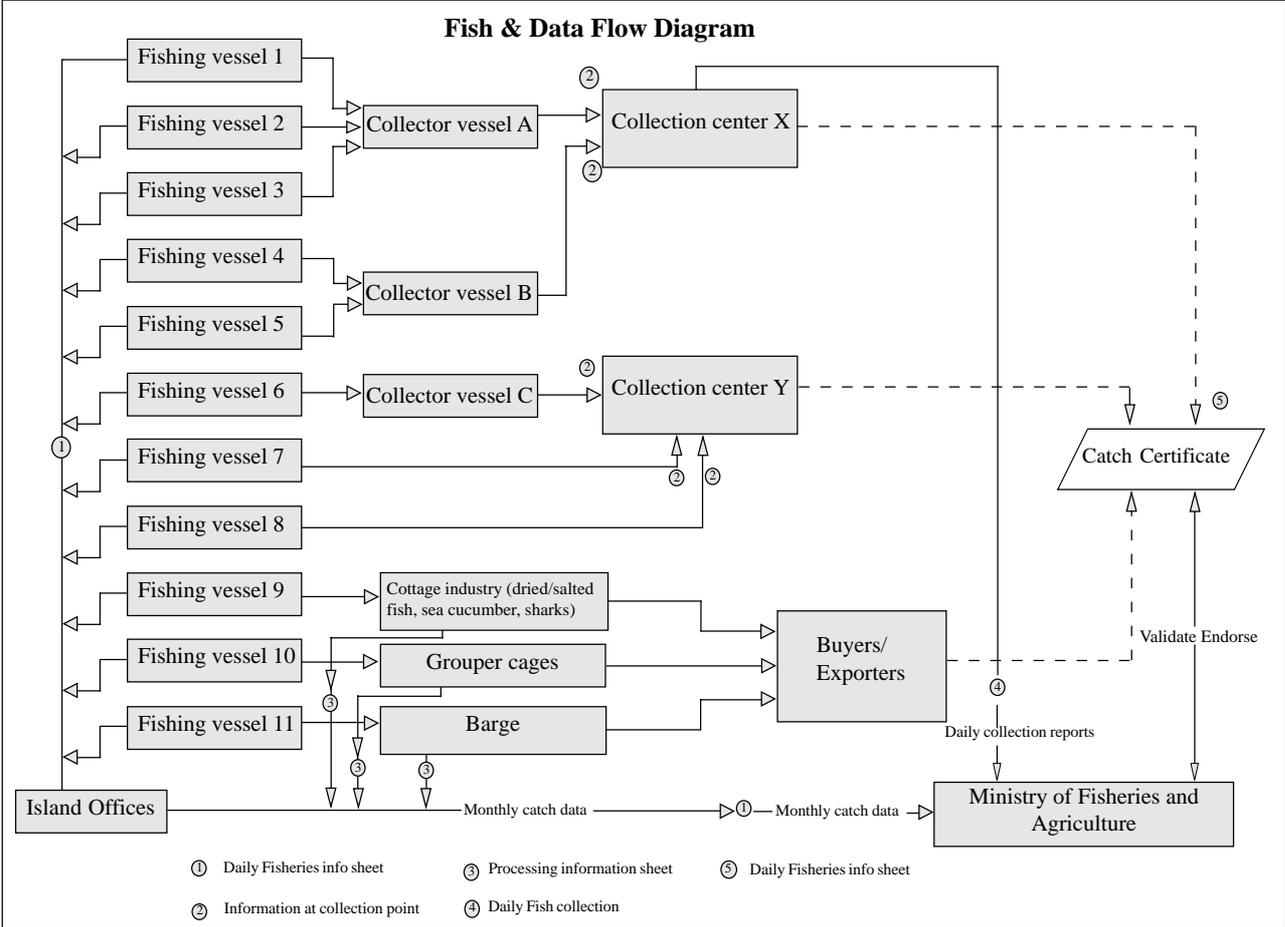


Figure 11: Proposed procedure for catch certification in Maldives

4.5 Summation

Summing up, the EU-IUU Regulation is a blessing in disguise for Maldives due to its better MCS system compared to many other countries in the region. However, the country needs to further streamline its existing legal infrastructure and enforcement mechanism to realize the opportunity. Since nearly the entire catch is coming from waters within 75 nm, the existing system of licensing needs strengthening. The information flow system proposed by Maldives is expected to trace most of its fishery production from domestic waters. On the other hand, as the data shows, the Maldivian waters are frequented by vessels flying flags of both the neighbouring countries and distant water fishing nations. Being a small island nation, Maldives has a huge burden of monitoring a large EEZ as compared to the resources at its disposal. The EU-IUU Regulation may provide a stepping stone for Maldives towards better cooperation from the flag states exploiting its water to curb IUU activities. At the same time, Maldives may consider it necessary to fulfill its obligation as an Island state to deploy more resources in the EEZ to control IUU fishing. However, in the short run, since both of its important trading partners - Thailand and Sri Lanka-lack full preparedness to meet the EU-IUU Regulation, it may hamper the re-export of fishery products from these countries to EU. It will be necessary for Maldives to initiate discussions with these countries to ensure that they also meet the requirements of the EU-IUU Regulation.



5.0 Sri Lanka

The fisheries sector plays a key role in Sri Lanka's social and economic life. The sector contributes about 2.3 percent to GDP. The fisheries sector of Sri Lanka consists of three main sub-sectors, namely coastal; offshore and deep sea; and inland and aquaculture. These three sub-sectors employ around 250 000 active fishers and another 100 000 in support services. Marine fisheries are of considerable social and economic importance around the entire 1 770 km of Sri Lanka's coastline. The EEZ covers 517 000 km², of which some 27 800 km² forms the continental shelf.

5.1 The marine fisheries sector of Sri Lanka

On the basis of resource studies carried out in the past, annual sustainable yields from the coastal sub-sector have been estimated at 250 000 tonnes, consisting of 170 000 tonnes of pelagic species and 80 000 tonnes of demersal species. The total marine capture fish production in Sri Lanka has increased from 1 45 790 tonnes in 1990 to 274 630 tonnes in 2008 (Figure 12).

Among the marine fisheries sub-sectors, coastal fishery contributes nearly 60 percent of the total fish landing in the country. However, the off-shore and deep sea fishing is steadily emerging as an important contributor to the total fish production. The share of this sector (off-shore & deep sea fishing) in total marine production has increased from 8 percent in 1990 to about 40 percent in 2008 (Figure 12).

The species composition of fish landing shows a change since the mid-1990s. At present, tuna and tuna like species (skipjack, yellow fin, sail fish, marlins, sword fish, big eye tuna, bullet tuna, frigate tuna, kawakawa, etc) comprise over 50 percent of the landings. Small pelagic fishes (shore seine varieties) that constituted the major portion of landings in 1990s (over 40%), now comprise less than 30 percent of the landings (Figure 13).

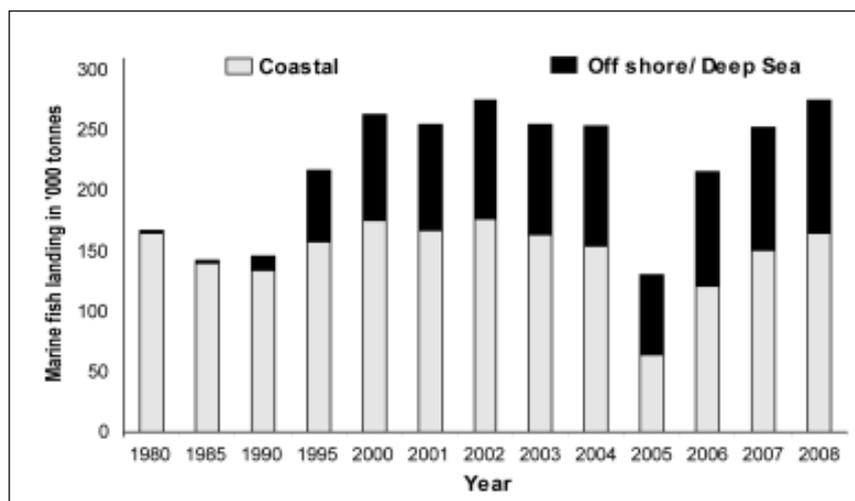


Figure 12: Sector-wise marine fish landings in Sri Lanka

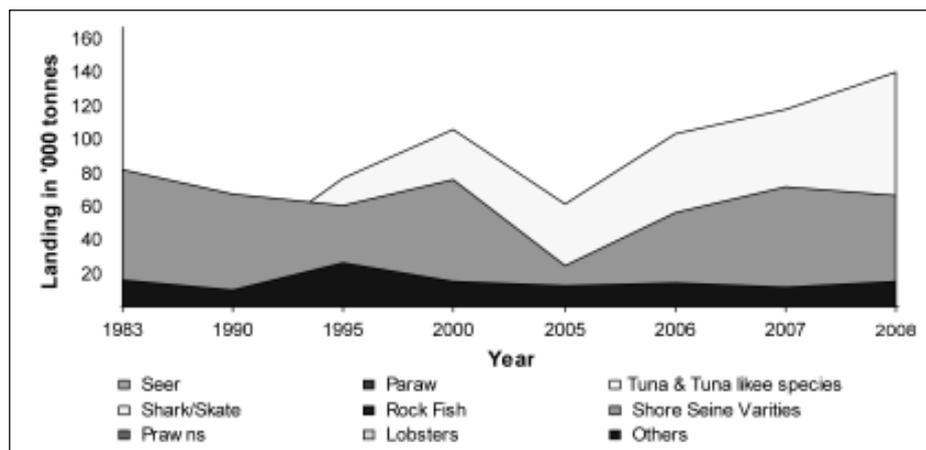


Figure 13: Species-wise growth of capture fisheries in Sri Lanka

The marine fishing fleet consists mainly of small to medium-sized craft, owned and operated by private individuals. The total fishing fleet consists of boats of diverse types, broadly classifiable into: non-motorized traditional craft; motorized traditional craft; fibre-glass hulled boats of 6–7 m LOA; larger boats of about 3.5 t; offshore multi-day boats; and beach seine crafts. Sri Lanka was badly devastated by the 26 December 2004 Asian tsunami. Post-tsunami, the country virtually rebuilt its fisheries infrastructure from scratch. At present, the country has 12 major fishery harbours, 34 anchorages, 710 minor fish landing centres and 29 boat yards. The number of fishing vessels has also increased from a total of 31 619 in 2004 to 42 678 in 2007 (*Table 14*). Major additions have taken place in the motorized traditional boats, multiday and FRP boats. The country has nearly achieved registration of all fishing vessels. In 2007, out of 42 678 fishing vessels, 32 735 vessels had been registered. The balance fishing vessels were mostly from the northern and eastern provinces of the country where registration work is now being carried out.

In terms of fishing gear, the longline/ gillnet combination contributes the majority of landings. As per the Fisheries Act, push net, harpooning for marine mammals, moxinet, gill net or trammel net on coral reefs or rocks, destructive fishing methods (*any poisonous, explosive or stupefying substance -including dynamite*) and monofilament nets are prohibited in Sri Lanka.

Table 14: Change in fishing fleet structure in Sri Lanka

Period	IMUL	IDAY	OFRP	MTRB	NTRB	NBSB	Total Boats
2007 (Post Tsunami)	2 618	1 157	17 835	1 854	18 206	1 008	42 678
2004 (Pre Tsunami)	1 581	1 493	11 559	674	15 260	1 052	31 619
Change (%)	66 %	(-) 23 %	54 %	175 %	19 %	(-) 4 %	35 %

Note : IMUL - Off - Shore Multi-day Boats; IDAY - Single-day Boats with inboard engine; OFRP -Fiberglass Reinforced Plastic Boats with outboard engine; MTRB - Motorized Traditional Boats; NTRB - Non-motorized Traditional Boats; NBSB - Beach Seine Crafts

5.2 Fisheries governance and administration

The basic law governing marine sector is the Maritime Zones law No. 22 of 1976. This Law provides for the declaration of certain maritime zones, in particular, the territorial sea (Section 2) and the right of innocent passage (Section 3); a contiguous zone (Section 4), which includes the novel ground of ‘security’; while Section 5 permits the declaration of an economic zone and provides for the rights Sri Lanka may enjoy in that zone. It does not make any reference to duties. Section 6 provides for a continental shelf.

The Fisheries and Aquatic Resources Act, 1996, along with the Foreign Fishing Boats Act, 1979 defines fisheries management in Sri Lanka. Both these laws provide effective control over fishing activities in the internal waters (including historic waters), the territorial sea and the EEZ of Sri Lanka. The other main laws/regulations relating to management and conservation of marine capture fisheries in the country are:

- ***Fisheries and Aquatic Resources (Amendment) Act. No. 4 of 2004*** – to prohibit destructive fishing methods such as any poisonous, explosive or stupefying substance (including dynamite).
- ***Registration of Fishing Boats Regulations, 1980 and its Amendments 1996 & 2006***: The Act provides that no person shall use or operate within Sri Lankan waters any fishing boat for purpose of fishing unless a certificate of registration in respect of such fishing boat has been issued under regulations issued by the Director General (DG) of Fisheries or any officer authorized by him on that behalf (Regulation 2). Further, on receipt of the certificate of registration issued under Regulation 6, the holder of such certificate shall fix on to his boat a name board painted with the registration number appearing in the certificate (Regulation 7).
- ***Fishing Operations Regulations 1996 & Amendment 2005***: The Act provides for banning of harmful fishing gear and holds that no person shall engage in, or cause any other person to engage in, any fishing operation specified in Part I of the schedule hereto, in the sea, estuaries or coastal lagoons of Sri Lanka, except under the authority of a license issued under these regulations and otherwise than in accordance with the terms and conditions attached to such license.
- ***Landing of Fish Regulations 1997 and Amendment 2008***: The Act provides for data reporting by fishing vessels. Regulation 11 of the Act holds that immediately after each fishing trip, data relating to the catch and such other information as may be required by the DG of Fisheries and Aquatic Resources shall be submitted to the DG by the owner of the boat. The amendments to the Act further provide that no person shall land fish taken outside the Sri Lankan waters in any commercial harbour, fishery harbour, anchorage or fish landing center in Sri Lanka, except with the authority of a landing permit issued by the DG. Provided, however, that this regulation shall not apply in relation to any fish taken by a fishing boat registered under the provisions of the Fisheries and Aquatic Resources Act No. 2 of 1996. Further, Paragraph (2) of the Amended Act provides that any fish taken outside the Sri Lanka waters under the authority of a landing permit issued under paragraph (1) of these regulations shall not be transferred, reloaded or transshipped to any local or foreign fishing boat within the Sri Lanka waters.
- ***Lobster Fisheries Management Regulations, 2000 and Amendment 2009***: Regulation 2 of the Act holds that no license holder shall engage in catching spiny lobster within the sea area specified in Schedule I of these regulations unless the license issued bears an endorsement to that effect. Regulation 6 holds that no person other than the permit holder shall be in possession, or exhibit for sale or transport flesh of spiny lobster or slipper lobster except under the authority of a permit issued for that purpose by the DG. The Act has been amended in 2009 to provide for seasonal ban in lobster fishery during the month of February, September and October.
- ***Sea Shells Fisheries Management and Export Regulation, 2001***: As per the Regulation, certain sea shell species are scheduled and their collection by trawling or dredging or other means, possession, selling, purchasing, transporting or exporting has been prohibited.
- ***Chank Fisheries Management and Export Regulation, 2003***: The Regulation introduced licensing in chank fisheries and prohibits any trawling or dredging of sea bed to take chank live or dead.
- ***Monofilament Nets Prohibition Regulations, 2006***: The Regulation prohibits use, possess, import, transport, purchase or sale of monofilament nets for the purpose of catching fish within Sri Lankan waters.

The Ministry of Fisheries and Aquatic Resources (MFAR) is the key Ministry in the institutional framework managing the fisheries sector. The Ministry is helped by other agencies engaged in research, planning, input supply and production and marketing. The Department of Fisheries & Aquatic Resources (DFAR) under the MFAR is the key agency to implement the fisheries management programmes. The main management instruments in Sri Lankan fisheries are:

- Registration of fishing crafts;
- Fishing operation licence;
- Prohibition of dynamite or poisonous fishing;
- Prohibited fishing gear & fishing nets;
- Prohibition or regulation of export and import of fish; and
- Declaration of fisheries reserves.

The following major activities are implemented by DFAR in respect of fisheries resources management:

- Participation in making fisheries management policy and plans.
- Implementation of fisheries management programmes, especially in coastal fishery management.
- Registration of fishing vessels.
- Issue of fishing operation licences.
- Issue of fish import and export licences.
- Issue of fish landing permits for foreign fishing vessels.
- Declaration of fisheries management areas.
- Establishment and maintenance of fisher organizations.
- Issue of fishermen identity cards.
- Organization and coordination of field officers in enforcement activities.
- Settlement of fisheries disputes.
- Other activities related to fisheries management.

Further, regular monitoring and enforcement activities are conducted by a set of DFAR field officers in different capacities around the Island to prevent and to take deterrent action over unauthorized and IUU fishing.

5.3 MCS and traceability of fisheries products in Sri Lanka

The DFAR has a MCS Division, which has been established to ensure protection of fisheries resources through MCS programmes and rescue fishermen stranded at sea. The Division performs surveillance and rescue operations, monitoring and control of illegal unauthorized fishing, providing fishing ground information to fishermen, providing weather forecast for fishermen, maintenance of communication network and coordinates with the Sri Lankan Navy, Air Force and Colombo Radio to rescue fishermen and crafts in distress situation within the EEZ of Sri Lanka – and where outside the EEZ, with the Foreign Affairs Ministry and other foreign missions.

The DFAR is also the competent authority for exporting fishery products. The main objective is to ensure the quality and safety of fishery products intended for human consumption, placing them on the international market by implementing the Fish Products (Export) Regulations, 1998 (The Gazette of the Democratic Socialist Republic of Sri Lanka published in Gazette Extraordinary No. 1045/1 of September 14, 1998) and Amendment to Fish Products (Export) Regulations, 1998 (The Gazette of the Democratic Socialist Republic of Sri Lanka published in Gazette Extraordinary No. 1126/20 of April 06, 2000) to cover drinking water. The DFAR, through a dedicated Unit performs the following services to ensure that fishery products meet international standards:

- Approval of establishments processing fish for export.
- Issue of operating licences to establishments to process fish for export.
- Inspection of fish processing establishments, landing sites and fishing boats. Inspection of transportation of fish (raw material) from landing sites to processing plants.
- Issue of health certificates for each consignment of fish/fishery products for export. Approval of laboratories used for testing samples of products, water, ice, etc.
- Conduct an official sampling programme for water, ice and fishery products.
- Conduct awareness programmes for the industry in quality and safety.
- Conduct an official residue monitoring programme for aquaculture products.

In this regard, it is also important to note that TUNA Retail Sales, one of the main suppliers to United Kingdom from Sri Lanka, has been awarded with Friend of the Sea¹⁶ approval for their processing of yellowfin tuna from local artisanal shortline vessels in Sri Lanka. The assessed fishery is composed of vessels up to 18 meters in length, deploying an average of 500 hooks per line. An onsite audit by an international independent certification body was run for the fishery, verifying the fishing method, composition of discards, compliance with national regulations and traceability up to the finished product and was found certifiable¹⁷.

Sri Lanka's current procedure for registration, monitoring and inspection of fishing boats supplying fish for exports:

- The Fisheries Management Division of the DFAR is responsible for licensing/registration and inspection of all fishing crafts for management measures (these licenced boats operate within the EEZ of the country).
- The Fishery Product Quality Control Unit of the DFAR is responsible for monitoring and inspection of fishing boats that supply fish for exports to check compliance of the necessary hygienic standards.
- A master list of boats (that supply fish for export) is maintained by the Fishery Products Quality Control Unit and it is updated annually/where necessary.
- Currently the master boat list consists of 700 registered fishing vessels (small-scale) that supply fish for export.
- All the fish processing establishments purchase fish from previously identified fishing boats, which are registered by the DFAR.
- Fish processing establishments are also responsible for maintaining updated boat lists. All the important boat details are maintained by the fish processing establishments for the purpose of traceability.
- All fish processing establishments are required to submit their updated boat lists with required details to the Fishery Products Quality Control Unit of the DFAR for necessary controls.
- The regular inspections on fishing boats are carried out by two parties *i.e.* fish processing establishments and the Competent Authority.
- Fishing boats that supply fish to fish processing establishments for export are inspected by the quality control personal of the respective establishments.
- All the fishing boats that supply fish for export appear in the master boat list and are inspected by the Fishery Product Quality Control Officers of the Central Authority of the DFAR at the landing sites/ fishery harbours twice a year. These fishing boats are regularly inspected by the Quality Control Assistants assigned to the District Offices of the DFAR. These regional level controls are also reported to the Fishery Product Quality Control Unit at the head office of the DFAR for necessary action.

5.4 The impact of EU-IUU Regulation

The fisheries export of Sri Lanka mainly comprises frozen shrimps and prawns, fresh or chilled flatfishes, frozen tunas, ornamental fishes, frozen yellowfin tuna, miscellaneous corals and shells, frozen crabs and shells. These products together comprise about 75 percent of total export in quantity terms and 81 percent of total export in value terms (*Table 15*).

During the same period (2000-06), the total export of various fish and fish products from Sri Lanka to EU-27 increased nearly four-fold from 2 158 tonnes to 9 278 tonnes (*Figure 14*) and presently (2008) stands at 13 816 tonnes. The figure shows that during the period there is considerable increase in the share of EU in total export of fish and fishery products, and it has emerged as an important market for Sri Lanka. More importantly, this growth in the trade with EU is also facilitated by the GSP status of Sri Lanka.

¹⁶ *Friend of the Sea is a project for certification and promotion of seafood from sustainable fisheries and sustainable aquaculture. It is the only certification scheme which, with the same logo, certifies both wild and farmed seafood. Friend of the Sea started as a project of the Earth Island Institute, the NGO which operates the successful International Dolphin-Safe Project.*

¹⁷ *Fishnewseu (<http://fishnewseu.com/latest-news/world/1619.html>)*

Table 15: Export of fisheries product from Sri Lanka (2000-06)

Commodity	Total exports in quantity (tonnes)	Share in total exports in quantity (%)	Share in total exports in value (%)	Whether covered by EU-IUU regulation
Shrimps and prawns, frozen, <i>nei</i>	21 902	19.14	32.93	Y
Flatfishes, fresh or chilled, <i>nei</i>	17 605	15.39	9.86	Y
Flatfishes <i>nei</i> , frozen	11 848	10.36	8.90	Y
Fish, frozen, <i>nei</i>	10 313	9.01	6.63	Y
Tunas <i>nei</i> , frozen	7 593	6.64	5.95	Y
Ornamental fish <i>nei</i>	4 755	4.16	5.54	N
Yellowfin tuna, frozen, <i>nei</i>	5 141	4.49	3.17	Y
Miscellaneous corals and shells	698	0.61	2.97	N
Crabs <i>nei</i> , frozen	4 768	4.17	2.48	Y
Shells <i>nei</i>	649	0.57	2.38	Y

Source: FAO FISHSTAT Database

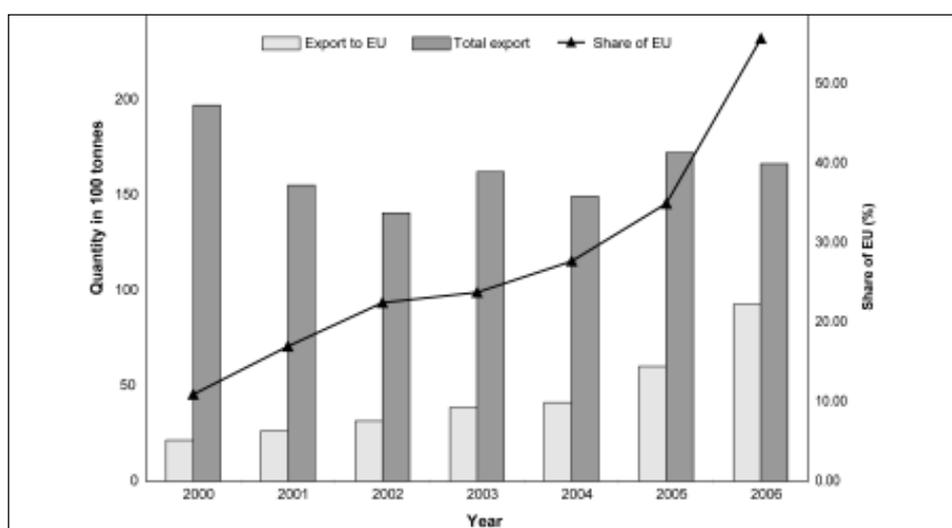


Figure 14: EU-Sri Lanka fisheries trade (2000-06)

Source: Figures for total export of Sri Lanka is from FAO FISHSTAT data base. Figures for export to EU are actual import figures reported by EU and extracted by using web-based query of EuroStat External Trade Dataset (EU27 Trade Since 1995 By HS2-HS4). The query interface can be accessed at <http://epp.eurostat.ec.europa.eu/newxtweb/>. Please note that since the data are from two-different sources, their compatibility is an issue and may be best treated as indicative.

5.5 Summation

Summing up, the legislative regime has some strong elements from a sustainable fisheries perspective. The fisheries legislation, while adequate in terms of addressing local and foreign fishing within the EEZ, does not provide effectively for high seas fishing – which is a major problem area for controlling IUU fishing. However, as the Friend of the Sea certification shows there is scope of traceability in Sri Lankan fisheries even in the small-scale sector. The country is also a member of IOTC and can use the IOTC catch certification for tuna exports. Since Sri Lanka has successfully overcome its internal strife, it will be possible for the country to invest more resources in marine fisheries MCS. In terms of requirement for catch certification, the country has an advantage. Since the DFAR is responsible for both MCS and quality certification, it is relatively easier to designate it as an appropriate authority for catch certification also. However, with 15 fishing harbours and 710 landing centers and a growing offshore fishing fleet, the DFAR will face a challenging job with its present capacity. Further the EU-IUU Regulation also provides an opportunity for Sri Lanka to take regional action in controlling IUU fishing.

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Status of actions initiated in Maldives to meet the requirements of the EU-IUU Regulation

The Ministry of Fisheries and Agriculture has initiated several actions to meet the requirements of the EU-IUU Regulation. A Working Group comprising officials of the Ministry of Fisheries and Agriculture (including the State Minister for Fisheries), legal experts and members of the sea food exporters association has been constituted and the Group has carried out the following tasks:

- Conducted Gap Analysis to identify the shortcomings in fisheries management and legislative areas with regard to the requirements of the EU-IUU Regulation.
- Organized series of consultations with fishers groups in the larger fishing islands. Similarly, consultations were organized with exporters and processors.
- Developed a data and fish flow mechanism for the domestic fishing fleet to meet the requirements of ‘catch certification’ under the EU-IUU Regulation.
- Prepared draft amendments to the fisheries regulation to align it with the requirements of the EU-IUU Regulation. The draft amendments are finalized and will be placed before the Parliament in early October.
- Developed mechanisms to issue licenses to the fishing fleet, processors and aquaculture farms.
- Developed communication channel with EU.
- A web-server is being developed to issue licenses from the Atoll offices on behalf of the Ministry of Fisheries and Agriculture.
- A VMS scheme is currently being piloted in collaboration with the World Bank and the Transport Authority of Maldives.
- The pilot testing of ‘catch certification’ would commence in late November 2009.
- The EU has been notified on the validation authority of the Maldives or the purpose of ‘catch certification’.



Status of actions initiated in Sri Lanka to meet the requirements of the EU-IUU Regulation

The Ministry of Fisheries and Aquatic Resources has initiated the following actions for meeting the requirements of the EU-IUU Regulation:

The existing regulations being implemented in compliance with EU-IUU Regulation

- Fisheries and Aquatic Resources Act No. 2 of 1996.
- Fisheries and Aquatic Resources (Amendment) Act No. 4 of 2004 – to prohibit destructive fishing methods such as ‘any poisonous, explosive or stupefying substance (including dynamite)’.
- Registration of Fishing Boats Regulations, 1980 and its amendments of 1996 & 2006 – to ensure the legality of the fishing vessels.
- Fishing Operations Regulations of 1996 & amendment 2005 – to ensure the legality of fishing gear used.
- Landing of Fish Regulations of 1997 amendment 2008 – to ensure the legality of fish landings.
- Lobster Fisheries Management Regulations, 2000 and Notification, 2009.
- Chank Fisheries Management and Export Regulations, 2003.
- Monofilament Nets Prohibition Regulations, 2006 – to prohibit harmful fishing gear used.

Recent In-Country Developments

- Monitoring and surveillance in place.
- Rules and regulations imposed.
- Awareness programmes carried out.
- Actions taken to ensure food safety and traceability.
- Dialogue with stakeholders on catch certification.

Concerns on EU-IUU Regulations

- Issues in catch certification for small-scale fishery.
- Further strengthening of existing Port Inspection System.
- Need for regional effort.
- Exploring appropriate mechanism to achieve EU-IUU objectives.



Roadmap to meet the requirements of the issues relating to the Council Regulation (EC) No 1005/2008 of 29 September 2008

1.0 Introduction

1.1 The Requirements of EU-IUU Regulation

The Council Regulation (EC) No 1005/2008 of 29 September 2008 of the European Union (EU-IUU Regulation) has posed trade issues before the member-countries (Bangladesh, India, Maldives, Sri Lanka) of the Bay of Bengal Programme Inter-Governmental Organisation (BOBP-IGO). In brief, the EU-IUU Regulation poses four requirements before an exporting country (Please see Annexure 7 for details on the subject):

- *Informing the EU about the existing fisheries management and legal architecture and its implementation;*
- *Constitution/ appointment of a competent public authority for validation of information and notifying the EU about the same.*
- *Setting up of an information-sharing mechanism with the EU (and other countries if required); and*
- *Validation of information furnished by an exporter for a fisheries consignment to the EU as a 'catch certificate'.*

As can be seen from the above, the first requirement is a pre-requisite for fulfilling the other requirements. In other words, if the EU is satisfied with the existing state of fisheries management and legal regime of a country, it will recognize the appointed authority for validation of catch certificates. In the same vein, the second requirement is a necessary condition (or check in a flow chart) for the third and fourth requirements. The third requirement is an enabling requirement and not a necessary condition. Its objective is to facilitate the verification of catch certificate by a competent authority in the EU. The fourth requirement is a necessary condition for trading with the EU.

1.2 Choice set for the member-countries

As far as the BOBP-IGO member-countries are concerned, they have the following five options:

Option I: *Complying with the requirements of EU-IUU Regulation.*

Option II: *Initiating a process of compliance and starting negotiations with EU for more time and technical support.*

Option III: *Entering into negotiations with EU for relaxation assuming that the country cannot fulfill the requirements and asking for more time from the EU to do so.*

Option IV: *Increasing trade with other existing markets, exploring new markets and expanding domestic markets.*

Option V: *Maintaining status quo.*

All the above-stated options have their associated costs and benefits. However, one could assert that from the standpoint of simple marketing basics, ignoring the biggest consumer of seafood could be detrimental to the economies of BOBP-IGO member-countries. Assuming that the EU will stick to its Regulation in the present form, Option III may be irrelevant. In the same vein Option V is also irrelevant unless a country already has a system that meets the criteria or wishes to lock horns with the EU.

Exploring new markets or increasing share in existing markets is always a good option unless as mentioned earlier it is to replace the biggest market for fisheries. Also, such measures might only end in delaying the 'inevitable', since other markets like USA and Japan may also follow the EU road and bring in environment-related trade restrictions. Irrespective of the EU-IUU Regulation, it may be stated here that coastal nations are making efforts to curb global menace of IUU fishing and nations not following the path may get isolated in the times to come.

Looking into all the *pros and cons*, the member-countries (at least in the long run) have the following two options:

Option I: *Complying with the requirements of the EU-IUU Regulation.*

Option II: *Initiating a process of compliance and starting negotiations with the EU for more time and technical support.*

1.3 The objective of the Roadmap

The objective of the Roadmap is to explore the two options stated above for each member-country. Reading the EU-IUU Regulation in terms of its scope and definitions, each BOBP-IGO member-country has varying degrees of IUU fishing. This Roadmap analyses the situation in respect of each member-country and also presents an array of options to address the issues.

2.0 Summary of the status of member-countries with respect to EU-IUU Regulation

Among member-countries, Maldives seems to be in the best position to address the issue due to its relatively smaller fishing fleet and single-species fisheries. In India and Bangladesh, the size of the small-scale fishing fleet, its multi-species character and the wide dispersal of fish landing centres makes MCS a huge challenge. In Sri Lanka, the situation is relatively better, especially for offshore fisheries. However, all the four member-countries lack the required framework (legal and administrative) to discharge their flag state responsibilities and fully comply with the requirements of the EU-IUU Regulation. (*Table 16*).

3.0 Meeting the requirements of EU-IUU Regulation

In general, the following steps are required to be taken to meet the EU-IUU Regulation:

- Inventory of Fishing Harbours/ Fish Landing Centres (FLCs).
- Registration of all collection agents/ middlemen whose consignments are destined for export to the EU (harbor/ FLC-wise).
- Inventory of exporters whose consignments are destined to the EU (harbor/ FLC-wise).
- Registration/ licensing of fishing vessels and other vessels included in the Regulation and ensuring that such vessels meet the requirements of the law governing their operation.
- Issuance of notifications/ government orders where provisions do not exist in the existing legislation. In the long run updating the legislation to fulfill the gaps.
- Ratification and or accession to international laws and legally binding agreements on marine fisheries.
- Ensuring availability of adequate manpower and other paraphernalia for registration/ licensing of fishing vessels and ensuring their compliance.
- Implementation of log book system for all fishing vessels whose catch forms a part of the fishes exported to the EU countries.
- Ensuring availability of adequate manpower for surveillance at port and at sea to ensure compliance.
- Establishing mechanism for flow of catch data to the national registry and to the exporters.
- Establishing mechanism for cross-verification of catch data.
- Inventory of such fishing vessels whose catch forms a part of the fish consigned to the EU member-states.
- List of officials authorized to validate the catch certificates on behalf of the flag state.
- Sharing information with the EU about existing rules, norms and implementation procedure regarding IUU fisheries.
- Issuance of notification to the Commission on fulfillment of the requirements of the Catch Certification.

In the EU-IUU Regulation ‘fishing vessel’ means any vessel of any size used or intended for use for the purposes of commercial exploitation of fishery resources, including support ships, fish processing vessels, vessels engaged in transshipment and carrier vessels equipped for transportation of fishery products, except container vessels (Art. 2). Hence, it is applicable to vessels engaged in both small-scale and industrial fishing.

It is suggested that the requirements of the EU-IUU Regulation may be approached by the member-countries in the following manner:

- Immediate or impact management measures to be taken before 01 January 2010.
- Corrective measures to be taken in the medium-term (One Plan Period, usually 5 years).
- Capacity enhancement programmes for full compliance in the long-run (2-3 Plan period; 10-15 years).

Table 16: Status of Bangladesh, India, Maldives and Sri Lanka on prevention of IUU fishing

Criterion	Bangladesh	India	Maldives	Sri Lanka
Registration/licensing of domestic fishing vessels (FV).	Except industrial trawlers, majority of mechanized and the entire non-mechanized FVs are neither registered nor licenced.	Most of the mechanized and non-mechanized FVs are not registered under the M S Act. However, most of the mechanized FVs are licenced under the Marine Fishing Regulation Act (MFRA) to be eligible to receive the fuel subsidy.	A majority of the FVs are registered and licensed for fishing.	Majority of fishing boats except those in the civil strife affected northern and eastern provinces are registered.
Reporting of catch data.	No practice of reporting catch data, except for industrial trawlers.	No practice of reporting catch data. Only the foreign fishing vessels operating under the letter of permit provide catch data.	System of reporting catch data exists. However, it needs to be streamlined.	System of catch reporting at harbour by long liners is legally binding.
Adhering to conditions of licence or international norms (e.g. fishing in closed season/ area or beyond quota or violation of zonation, use of illegal fishing gear, etc.).	Apprehension of domestic FVs by Coast Guard/ Navy shows violation of the conditions of licence by trawlers and gill netters.	There is no system of monitoring in the territorial waters. However, there are frequent reportings on violation of zonation as provided in the MFRA's.	Information on IUU fishing by domestic vessels is not available. However, the extent is expected to be negligible since no areas are prohibited, except the MPAs.	Information on IUU fishing by domestic vessels is not available. Anecdotal information shows use of banned gear during fishing and incidence of fishing in protected areas.
Observer programme.	No observer programme.	No observer programme.	No observer programme. It was initiated once, but later dropped.	No observer programme.
Restrictions on harvesting of juveniles/ undersize fish.	No prohibition; mesh size regulations exist for hilsa species.	Size regulations for some species (Pomfret, etc). However, enforcement weak.	No prohibitions.	Prohibitions under the Lobster Fisheries Management Regulations, 2000 and Fishing Operations Regulations 1996 & 2005 amendment.
Non-collaboration with listed IUU fishing vessels.	Information not available.	Information not available.	Information not available.	Information not available.
Adherence to the requirements of RFMOs.	Not member of any RFMO.	Member of IOTC. Non-compliance not reported.	Not member of any RFMO.	Member of IOTC. Non-compliance not reported.
Performing port state/ coastal state responsibilities.	Weak monitoring in the high seas.	No rules for domestic fishing fleet in the EEZ and high seas. Foreign fishing fleet regulated, but monitoring inadequate.	Weak monitoring.	Weak monitoring.

3.1 Bangladesh: Road Map

A: Assessing the capacity to deal with domestic and foreign IUU fishing.		
Parameter/ dimension	Criteria/ Provisions	
Domestic fleet	Registration (Requirement: All commercial FVs should be registered).	
Legislation	<i>The Bangladesh Merchant Shipping Ordinance, 1983 provides for registration of all FVs by Mercantile Marine Department (MMD) under the Ministry of Shipping.</i>	
Implementation	Majority of FVs are not registered.	Result: Implementation gap
	MMD has a limited field presence.	Solution: Corrective medium-term measures based on the National Plan of Action on MCS (NPOA -MCS).
<i>Immediate action: The EU may be notified of the situation and about the NPOA-MCS. The reason for requesting for more time could be the highly-dispersed and small-scale nature of the fisheries. Further, Bangladesh as a developing nation also has resource constraints.</i>		
Domestic fleet	Licencing (Requirements: All registered commercial FVs should be licenced).	
Legislation	Marine Fisheries Ordinance, 1983 provides for licencing of all vessels with discretion for non-mechanized FVs (NFMVs) by the Marine Fisheries Office (MFO) of the DoF.	Result: Gap in licencing for NMFVs
	Control over domestic fleet in the EEZ and the high seas	
Legislation	Marine Fisheries Ordinance, 1983.	The domestic fishing fleet is mostly concentrated in the territorial waters. The EEZ, especially the deeper seas may be vulnerable to IUU fishing by foreign fishing vessels. The existing monitoring mechanism need to be strengthened to reduce the vulnerability of the EEZ.
Implementation	MFO is understaffed and has a limited field presence.	Result: 84 % of MFVs and the entire NMFVs are unlicensed. Solution: Review of existing licencing procedure for NMFVs and strengthening of MFO.
Fishing by Foreign FVs	Proclaiming domain of national waters and assuming responsibility in line with UNCLOS and other international agreements.	
Legislation	<i>Bangladesh Territorial Waters and Maritime Zones Act, 1974 provides for necessary measures.</i>	
Implementation	The Bangladesh Coast Guard is in the formative stages. Presently, the Navy is undertaking surveillance work.	Result: IUU fishing by neighbouring-countries and Flag of Convenience (FoC) vessels. Solution: Implementation of NPOA-MCS will address most of the issues. Corrective medium-term measures can also be based on the NPOA-MCS.
<i>Immediate action: The EU may be notified of the situation and about the NPOA-MCS. The reason for time needed citing status of the country as a developing nation and dispersed small-scale traditional fishery.</i>		
B: Assessing the capacity for data reporting and data verification.		
Domestic fleet	Requirement: Catch reporting by all fishing vessels.	
Legislation	Data reporting by only industrial trawlers as per Marine Fisheries Ordinance, 1983.	Result: Data shows industrial trawlers land only 7% of catch. Therefore, detailed information for the remaining 93% catch is not available. Suggestion: Introducing data reporting for all commercial fishing vessels and strengthening on-shore monitoring. Immediate steps: Ensuring monitoring and catch reporting in major fishing centres like Chittagong and Cox's Bazaar.
Implementation	Industrial trawlers are submitting data, which is verified through random physical inspection.	
Foreign fleet	No licenced foreign FV is operating.	

Setting up of a competent authority for catch certification.		
Legislation	The Marine Fisheries Ordinance, 1983 has empowered DoF for MCS and quality control of fish trade.	
Implementation	Immediate action: Notification may be issued under the Ordinance.	
Setting up of a mechanism to ensure traceability of fisheries product exported to EU and validation of catch certification.		
Legislation	No legislation at present	Suggestion: Long-term measure. Issuing notification under Marine Fisheries Ordinance, 1983.
Implementation	Priority	Process
Immediate measures	Step I	Consultation with exporters to the EU.
	Step II	Identifying each component of their supply chain.
	Step III	Consultation with the associated wholesalers and agent/ middlemen.
	Step IV	Mobilizing middlemen to identify fishing vessels, which regularly supply to them.
	Step V	Consultations with boat owners, skippers and middlemen.
	Step VI	Translation of requirements for catch certification in vernacular.
	Step VII	Short-term (1-2 days) local-level awareness programme/ training on information requirement.
	Step VIII	Deploying DoF staff for on-shore monitoring.
	Step IX	Using the procedure to collect and validate required information.
Corrective medium-term measures	Step X	Informing the EU about the procedure.
	Step XI	Implementation of NPOA-MCS within a specified time-frame.
	Step XII	Review of existing legislation and addressing the gaps as mentioned above.
	Step XIII	Establishing single-window registration and licensing system.
	Step XIV	Mobilizing non-conventional sources like NGOs, fisher communities, etc for implementation of MCS as suggested in the NPOA-MCS.
Long-term measures	Step XV	Bi-lateral discussions with neighbouring countries for information sharing and joint patrolling, etc.
	Step XVI	Revision/ amendment of fisheries legislation as required.
	Step XVII	Capacity building of DoF/ MoS/ Coast Guard.
	Step XVIII	Consolidation of fisheries sector by improving infrastructure at strategic locations.

3.2 India: Road Map

A: Assessing the capacity to deal with domestic and foreign IUU fishing		
Parameter/ dimension	Criteria/ Provisions	
Domestic fleet	Registration (Requirement: All commercial FVs should be registered)	
Legislation	<i>The Merchant Shipping Act, 1958 provides for registration of all FVs by the Marine Mercantile Department (MMD). The Ministry of Shipping has issued two notifications on June 24, 2009 for streamlining the procedure for registration of fishing vessels and to remove the multiplicity of registration regimes for FVs under various Central and State legislations (e.g. MPEDA Act, MFRAs). Henceforth, registration of all the FVs will be done under the provisions of the Merchant Shipping Act, 1958. One of the notifications issued in June 2009 notifies the revised registration format for the FVs. The second notification notifies a list of 127 registrars in various coastal states of the country. These registrars have to register the FVs as per the laid down procedure. With these two notifications, a new system of registration of the FVs has been put in place in the country. These notifications were issued partially to enhance security measures in the coastal areas of the country.</i>	
Implementation	Majority of FVs are not registered.	Result: Implementation gaps. MMD has presence only in ports while fishing is undertaken from over thousand landing centres.
		Solution: Corrective medium-term measures based on National Plan of Action on MCS (NPOA-MCS). The two new notifications to be implemented within a specified time-frame.
Immediate action: The EU may be notified of the situation and about the NPOA-MCS. The reason for time needed citing status of the country as a developing nation and dispersed small-scale traditional fishery.		
Domestic fleet	Licensing (Requirement: All commercial FVs should be licenced).	
Legislation	MFRAs provide for licensing. However, artisanal fishing fleet is not adequately covered. Also, licensing is not a pre-requisite to enter marine waters.	Result: Gap in licensing for NMFVs.
Implementation	DoF is understaffed, especially in the area of MCS.	Solution: Review the existing licensing procedure for NMFVs and strengthening of DoF, especially for implementation of MCS system.
	Control over domestic fleet in the EEZ and the high seas.	
Legislation	No adequate legislation.	Result: A sizable fishing fleet operates in the EEZ and this poses a serious challenge.
		Suggestions: Revision of existing laws or enactment of a new law to cover fishing in EEZ and high seas by domestic vessels.
Fishing by Foreign FVs	Proclaiming domain of national waters and assuming responsibility in line with UNCLOS and other international agreements.	
Legislation	<i>The Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 and Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 provides for necessary measures.</i>	
Implementation	Coast Guard lacks capacity.	Result: IUU fishing by neighbouring countries and FoC vessels. Solution: India has developed a NPOA-MCS. Its implementation is expected to address the problem. Corrective medium-term measures based on NPOA-MCS.
B: Assessing the capacity for data reporting and data verification.		
Domestic fleet	Catch reporting by all fishing vessels.	
Legislation	<i>The Merchant Shipping Act, 1958 has provisions for catch reporting.</i>	Suggestion: Introducing data reporting for all commercial fishing vessels (logbooks) and strengthening on-shore monitoring. If required, the MFRAs may be amended to strengthen the data reporting aspects. However, the process is time-consuming.

	<i>However, since the Act deals with only registration of FVs, it is not much effective.</i>	Immediate steps: Ensuring monitoring and catch reporting in major fishing landing centre in consultation with the State Government/ Union Territories.
Setting up of a competent authority for catch certification.		
Legislation	The Export (Quality Control and Inspection) Act, 1963 provides for quality control and inspection.	Suggestion: While the Export Inspection Council (EIC) is the present authority for export certification, its exposure to fisheries management is virtually nil. The other authority dealing with fish trade is MPEDA. Under the MPEDA Act, 1972 the Authority may be notified to serve as the competent authority. However, the MPEDA cannot do such by itself unless it ensures cooperation from DoFs. On the positive side since both MPEDA and EIC are under the Ministry of Commerce (MoC) it may also be easier to ensure their cooperation.
Implementation	Immediate action: Notification may be issued under the MPEDA Act.	
Setting up of a mechanism to ensure traceability of fisheries products exported to the EU and validation of catch certification		
Legislation	No legislation at present.	Suggestion: Long-term measures Issuing notification under one of the existing acts, preferably under the MPEDA Act, 1972.
Implementation	Priority	Process
Immediate measures	Step I	National-level meeting on the issue involving MoA, MoC and DoFs to ensure that action is taken to serve the interests of the nation and also to fulfill India's international commitments to the problem of IUU fishing. The meeting should also determine the roles and functions of different agencies and the coordinating mechanisms.
	Step II	Consultation with exporters to the EU.
	Step III	Identifying each component of their supply chain.
	Step IV	Segregation of supply sources – those dealing through middlemen/ agents and those directly connected to the exporters.
	Step V	Ensuring traceability of products originating from fishing fleet directly dealing with the exporters (<i>e.g.</i> tuna fishery).
	Step VI	Utilization of IOTC Yellowfin Tuna Certification for continuing export of tuna products.
	Step VII	Establishing a process of validation for information furnished for other FVs directly dealing with exporters. Since MPEDA is associated with nearly the entire large-scale fleet via means of registration, grants & subsidy and issuing of TED certificate, collection and validation of data from these FVs by MPEDA should not be a major burden and can be taken up immediately.
	Step VIII	Consultation with Coast Guard & ISRO on implementation of VMS for larger FVs (>24 meter LOA) and later utilizing the data from VMS for validation purposes.
	Step IX	For small-scale fisheries, clarification should be sought from the EU about actual certification requirements. Since there are over 200 000 small-scale fishing vessels in India, it is difficult to validate data for each of them, even if a logbook system is established.
	Step X	State-level consultations with the associated wholesalers and agent/ middlemen and boat owners and awareness building.
	Step XI	Translation of requirements for catch certification in vernacular.
	Step XII	Setting up of Village Information Centres to collect fisheries information.

	Step XIII	Deploying DoF staff at shore for close monitoring initially during the training phase.
	Step XIV	Informing the EU about the procedure.
	Step XV	Using the procedure to collect and validate required information.
	Step XVI	External certification (additional measure) on selected fisheries.
Corrective medium-term measures	Step XVII	Review of existing legislation and addressing the gaps as mentioned above.
	Step XVIII	Mobilizing non-conventional sources like NGOs, fisher's communities in MCS as suggested in the NPOA-MCS.
	Step XIX	Implementation of the Centrally Sponsored Scheme on 'Strengthening of data collection system' as provided for in the XI Five-Year Plan.
	Step XX	Bi-lateral discussions with neighbouring countries for information sharing and joint patrolling, etc.
Long-term measures	Step XXI	Revision/ amendment of fisheries legislation, as required.
	Step XXII	Capacity building of DoF/ MoS/ Coast Guard.
	Step XXIII	Consolidation of fisheries sector by improving infrastructure at strategic locations.
	Step XXIV	Full implementation of the NPOA-MCS.



3.3 Maldives: Road Map

Maldives has already initiated the process to deal with the requirements of EU-IUU Regulation. One of the important outcomes of such process is the conceptual development of a data-flow mechanism from FVs to exporters and from FVs to the Ministry of Fisheries and Agriculture (MoFA) through the Atoll and Island Administration.

In this regard, the major challenge before Maldives is to give the proposed process adequate legal credibility and put the process into operation. Maldives also has an established catch reporting system and VTMS system, especially for vessels operating in the EEZ. However, there are some reports of increasing incidence of vessels failing to report their catch. This practice needs to be curbed.

Secondly, Maldives is also going through transformation where the Government is seeking a larger role for the private players. Hence it is important to establish a legal architecture that promotes the role of private players without undermining the efficacy of the fisheries management system.

A: Assessing the capacity to deal with domestic and foreign IUU fishing.		
Parameter/ dimension	Criteria/ Provisions	
Domestic fleet	Registration & licencing (Requirement: All commercial FVs should be registered and licenced).	
Legislation	<i>The Fisheries Act (Act No: 5/87) provides for registration and licencing. The registration is done by the Ministry of Economic Development and Trade while licencing is done by MoFA. However, registration is not compulsory. There is a proposal to shift the responsibility of licencing to the Atolls.</i>	Registration should be compulsory for all FVs and there should be provisions for de-registration also. Such measures are necessary to give the system credibility. Considering the geography of Maldives, the new proposal to shift licencing to the Atolls sounds good. However, its implementation efficacy is yet to be tested.
Implementation	Not all FVs are registered.	Solution: Corrective medium-term measures based on the National Plan of Action on MCS (NPOA-MCS).
Control over domestic fleet in the EEZ and the high seas.		
Legislation	Broad provisions exist under the Fisheries Act and Maritime Zones Act. Specific provisions absent.	There is an increasing international recognition on the importance of managing fisheries in the high seas and the EEZ. Hence, the absence of adequate measures seems like a gap in the legal architecture.
Fishing by Foreign FVs	Proclaiming domain of national waters and assuming responsibility in line with UNCLOS and other international agreements.	
Legislation	<i>The Maritime Zones of Maldives Act No. 6/96 provides for some measures.</i>	<i>There are some serious gaps in legislative architecture for foreign FVs, like lack of regulation on the minimum size of fish that can be caught.</i>
Implementation	Coast Guard lacks capacity.	Result: IUU fishing by neighbouring countries and FoC vessels. Solution: Corrective medium-term measures based on NPOA-MCS.
Setting up of a competent authority for catch certification		
Legislation	No legislation as such.	The MoFA is expected to be appointed as the competent authority.
Setting up of a mechanism to ensure traceability of fisheries products exported to EU and validation of catch certification		
Legislation	Fisheries Act	Gap: The Act provides for data reporting. However, as mentioned above the provisions need to be strengthened. More importantly, Maldives exports bulk of its catch to Thailand from where it is (possibly) re-exported to the EU. Maldives needs to set up a collaborative structure with Thailand for certification of such products.
Implementation	Priority	Process
	Step I	Notification to the EU about the existing legal and implementation procedure.
	Step II	Consultation with exporters to the EU to ensure continuation of supply and improving the presence in the market.
	Step III	Issuing notification for registration and licencing of all fishing vessels.
	Step IV	Translation of requirement for catch certification in vernacular.
	Step V	Ensuring traceability of products originating from fishing fleets directly dealing with the exporters (like tuna fishery).

Immediate measures	Step VI	Exploring the possibility of full IOTC membership and utilization of IOTC Yellowfin Tuna Certification for continuing export of tuna products.
	Step VII	Establishing a process of validation for information furnished for other FVs directly dealing with exporters.
	Step VIII	Formulating schemes for improving processing facility within the country.
	Step IX	Policy for increasing the quantity of fully processed seafood exports from the country.
	Step X	Setting up of Fisheries Information Centres at the Atoll and the Island levels.
	Step XI	Building rapport with domestic fishing vessels and involving them in monitoring.
	Step XII	Review of existing legislation and addressing the gap as mentioned above.
Corrective medium -term measures	Step XIII	Revision/ amendment of fisheries legislation as required.
	Step XIV	Implementation of the NPOA-MCS.
	Step XV	Capacity building of Ministry of Fisheries & Agriculture/ Ministry of Economic Development & Trade/ Coast Guard.
	Step XVI	Bi-lateral discussions with neighbouring countries for information sharing and joint patrolling, etc.
Long-term measures	Step XVII	Improving in-country processing capacity.

3.4 Sri Lanka: Road Map

A: Assessing the capacity to deal with domestic and foreign IUU fishing.		
Parameter/ dimension	Criteria/ Provisions	
Domestic fleet	Registration & licencing (Requirement: All commercial FVs should be registered).	
Legislation	The Fisheries and Aquatic Resources Act, 1996 along with the Foreign Fishing Boats Act, 1979 have adequate provisions.	<i>Gap: Sudden rise in number of FVs has created an implementation problem. However, the Acts do not have adequate facility for controlling fisheries in the EEZ and the high seas.</i>
Immediate action: The EU may be notified of the situation so that exports may be continued.		
Fishing by Foreign FVs	Proclaiming domain of national waters and assuming responsibility in line with UNCLOS and other international agreements.	
Legislation	<i>The Maritime Zones Law No. 22 of 1976 provides for the necessary measures.</i>	<i>Gap: The Law lacks enough provisions to control IUU fishing.</i>
Implementation	Navy lacks capacity.	Result: IUU fishing by neighbouring countries and FoC vessels.
		The recent political development in the country is expected to address this issue to a large extent.
B: Assessing the capacity for data reporting and data verification.		
Domestic fleet	Catch reporting by all fishing vessels.	
Legislation	<i>No legislation.</i>	Suggestion: Introducing data reporting for all commercial fishing vessels (logbooks) and strengthening on-shore monitoring. Immediate steps: Ensuring monitoring and catch reporting in major fish landing centres.

Setting up of a competent authority for catch certification.		
Legislation	The Fisheries and Aquatic Resources Act, 1996.	The Law has a provision for DFAR to ensure the quality of export, which may be further increased to ensure catch certification.
Implementation	Immediate action: Notifying the EU.	
Setting up of a mechanism to ensure traceability of fisheries products exported to the EU and validation of catch certification		
Legislation	No legislation at present	Suggestion: Notification under the Fisheries and Aquatic Resources Act, 1996.
Implementation	Priority	Process
Immediate measures	Step I	Consultation with exporters to the EU.
	Step II	Identifying each component of their supply chain.
	Step III	Segregation of supply sources – those dealing through middlemen/ agents and those directly connected to the exporters.
	Step IV	Ensuring traceability of products originating from fishing fleets directly dealing with the exporters (like tuna fishery).
	Step V	Utilization of IOTC Yellowfin Tuna Certification for continuing export of tuna products.
	Step VI	Establishing a process of validation for information furnished for other FVs directly dealing with exporters by the DFAR.
	Step VII	For small-scale fisheries clarification should be sought from the EU about actual certification requirements.
	Step VIII	Consultation with the associated wholesalers and agent/ middlemen and boat owners and awareness building.
	Step IX	Translation of requirement for catch certification in vernacular.
	Step X	Setting up of Landing-centre based Information Centres to collect fisheries information.
	Step XI	Deploying DoF staffs on shore for close monitoring initially during the training phase.
	Step XII	Using the procedure to collect and validate required information.
	Step XIII	Finalization of National Plan of Action on MCS (NPOA-MCS).
Corrective medium-term measures	Step XIV	Review of existing legislations and addressing their gap as mentioned above.
	Step XV	Mobilizing non-conventional sources like NGOs, fisher's communities in MCS
	Step XVI	Bi-lateral discussion with neighbouring countries for information sharing and joint patrolling, etc.
	Step XVII	Revision/ amendment of fisheries legislation as required.
Long-term measures	Step XVIII	Capacity building of the DFAR and other relevant Ministries/ Departments/ Agencies.
	Step XIX	Consolidation of fisheries sector by improving infrastructure at strategic location.
	Step XX	Full implementation of the NPOA-MCS.



Action Plan – Bangladesh

Implementation	Priority	Process
Bangladesh has adequate legal provisions to monitor fishing in Bangladesh waters and controlling IUU fishing under the Marine Fisheries Ordinance of 1983	Provisions in place.	For fishing in Bangladesh waters it is necessary to possess license and valid registration certificate. The vessel should display registration number, nationality sign through flag and suitable markings on the visible part of the vessel.
		The holder of any license shall keep detailed information of catches as well as sales in such form as may be prescribed and a copy of this information shall be furnished to the Director.
		No entry for foreign fishing vessels in Bangladesh fisheries waters except with license, to fish or attempt to fish, or load, unload or tranship any fish; or load or unload fuel supplies.
		Every fishing vessel engaged in trawl fishing shall obtain pre-sailing permission for fishing from the concerned Marine Fisheries Office (MFO) of the Department of Fisheries (DoF).
		Every freezer fishing vessel engaged in trawl fishing may be allowed sailing permission for a period not exceeding 30 (thirty) days and every non-freezer fishing vessel engaged in trawl fishing may be allowed sailing permission for a period not exceeding 15 (fifteen) days at a time.
		Every fishing vessel shall respond to the instruction of an authorized Officer at a Marine Fisheries Surveillance Check Post or at any other place.
		The landing or transhipment of the catch of any fishing vessel shall be made in the presence of an authorized Officer.
		All fish caught must be unloaded in the permitted port.
Immediate measures	Step I	Inter-ministerial consultation for identifying and sharing the responsibility arising out of the requirements of EU-IUU regulation regarding registration and licensing of fishing vessels, surveillance, verification and attestation of catch certificate and assisting EU member-countries in verification of documents.
	Step II	Identification and appointment of suitable public authorities for communicating with EU regarding requirement of EU-IUU Regulation and updating notification.
	Step III	Consultation with exporters to EU, owners of industrial trawlers, other boat owners, skippers and middlemen for specifying the supply mechanism.
	Step IV	Strengthening coordination amongst the MFO, Coast Guard and Navy to improve surveillance.
	Step V	Strengthening Coastal Watch Programme of the DoF. At present checking is carried out in the main landing centres through out the coastline.
	Step VI	Using the procedure to collect and validate required information.
	Step VII	Informing the EU about the catch certification procedure and formalization of arrangements.

	Step VIII	Conducting training <i>cum</i> awareness camps for stakeholders and fisheries officials on data furnishing and data verification.
	Step IX	Strengthening inter-ministerial consultation for carrying out registration of fishing vessels in a time bound manner.
	Step X	Conducting a mission-mode programme for licensing of newly registered fishing vessels by MFO.
Corrective medium- term measures	Step XI	Implementation of NPOA-MCS within a specified time-frame.
	Step XII	Increasing the number of marine check-posts from one to five.
	Step XIII	Mobilizing non-conventional sources like NGOs, fisher's communities, etc for implementation of MCS as suggested in the NPOA-MCS.
	Step XIV	Bi-lateral discussions with neighboring countries for information sharing and joint patrolling, etc.
Long-term measures	Step XVI	Revision/ amendment of fisheries legislation as and when required.
	Step XVII	Capacity building of DoF/ MoS/ Coast Guard.
	Step XVIII	Consolidation of fisheries sector by improving infrastructure at strategic location.

Note: The Action Plan of Bangladesh is based on the information given by the Ministry of Fisheries & Livestock, Government of Bangladesh on December 29 2009 (No. MOFL/F-4/IUU-45/2009(part-1)/326)



Action Plan – India

Implementation	Priority	Process
Immediate measures	Step I	National-level meeting on the issue involving MoA, MoC and DoFs to ensure that action is taken to serve the interests of the nation and also to fulfill India's international commitments to the problem of IUU fishing. The meeting should also determine the roles and functions of different agencies and the coordinating mechanisms. Communicating to the EU regarding initiation of steps for compliance and requesting for time for preferential treatment as a developing country.
	Step II	Consultation with exporters to the EU.
	Step III	Identifying each component of their supply chain.
	Step IV	Segregation of supply sources – those dealing through middlemen/ agents and those directly connected to the exporters.
	Step V	Ensuring traceability of products originating from fishing fleet directly dealing with the exporters (<i>e.g.</i> tuna fishery).
	Step VI	Utilization of IOTC Yellowfin Tuna Certification for continuing export of tuna products.
	Step VII	Establishing a process of validation of information furnished for other FVs directly dealing with exporters. Since MPEDA is associated with nearly the entire large-scale fleet via means of registration, grants & subsidy and issuing of TED certificate, collection and validation of data from these FVs by MPEDA should not be a major burden and can be taken immediately.
	Step VIII	Consultation with Coast Guard & ISRO on implementation of VMS for larger FVs (>24 meter LOA) and later utilizing the data from VMS for validation purposes.
	Step IX	For small-scale fisheries, clarification should be sought from the EU about actual certification requirement and request for preferential treatment. Since there are over 200 000 small-scale fishing vessels in India it is hardly possible to validate data for each of them, even if a logbook system is established.
	Step X	State-level consultation with the associated wholesalers and agent/ middle men and boat owners and awareness programmes involving NGOs, Cooperatives and the Societies set up by the MPEDA such as NETFISH, FISHNET, etc.
	Step XI	Translation of requirement for catch certification in vernacular.
	Step XII	Setting up of Village Information Centres to collect fisheries information.
	Step XIII	Deploying DoF and other institutional staff at shore for close monitoring initially during the training phase.
	Step XIV	Informing the EU about the procedure.
	Step XV	Using the procedure to collect and validate required information.
	Step XVI	External certification (additional measure) on selected fisheries.
Corrective medium-term measures	Step XVII	Review of existing legislation and addressing the gaps as mentioned above.
	Step XVIII	Mobilizing non-conventional sources like NGOs, fisher's communities in MCS as suggested in the NPOA-MCS.

Implementation	Priority	Process
	Step XIX	Implementation of the Centrally Sponsored Schemes in general and 'Strengthening of data base and GIS for fisheries sector' in particular as provided for in the XI Five-Year Plan.
	Step XX	Bi-lateral discussions with neighbouring countries for information sharing and joint patrolling, etc.
Long-term measures	Step XXI	Revision/ amendment of fisheries legislation, as required.
	Step XXII	Capacity building of DoF/ MoS/ Coast Guard.
	Step XXIII	Consolidation of fisheries sector by improving infrastructure at strategic locations.
	Step XXIV	Implementation of NPOA-MCS.

Note: The Action Plan was prepared by the participants from India based on the proposed Road Map.



Action Plan – Maldives

Implementation	Priority	Process
Immediate measures	Step I	Notification to the EU about the existing legal and implementation procedures.
	Step II	Issuing notifications for registration and licencing of all fishing vessels.
	Step III	Ensuring traceability of products originating from fishing fleets directly dealing with the exporters (like tuna fishery).
	Step IV	Establishing monitoring mechanisms at the Atoll/Island level.
	Step V	Establishing mechanisms to issue licences at the Atoll/Island level.
	Step VI	Ensuring that the amendment to the existing regulation is sent to the National Parliament by early October 2009.
	Step VII	Establishing communication between the re-exporting countries on their preparedness to implement the regulation.
Corrective medium -term measures	Step VIII	Exploring the possibility of full IOTC membership and utilization of IOTC Yellowfin Tuna Certification for continuing export of tuna products.
	Step IX	Formulating schemes for improving data collection and its quality from the cottage processing facilities within the country.
	Step X	Policy for increasing the quantity of fully processed seafood exports from the country.
	Step XI	Establishing mechanisms to formalize the cottage processors as co-operatives.
	Step XII	Building rapport with domestic fishing vessels and involving them in monitoring.
	Step XIII	Reviewing existing legislation and addressing the gaps as mentioned above.
	Step XIV	Revision/ amendment of fisheries legislation as required.
	Step XV	Implementation of NPOA-MCS.
	Step XVI	Establishing a Vessel Monitoring System to monitor local fishing vessels.
	Step XVII	Bi-lateral discussions with neighbouring countries for information sharing and joint patrolling, etc.
Long-term measures	Step XVIII	Improving in-country processing capacity.
	Step XIX	Setting up of Fisheries Information Centres at Atoll and Island levels.
	Step XX	Capacity building of Ministry of Fisheries & Agriculture/ Ministry of Economic Development & Trade/ Coast Guard.

Note: The Action Plan was prepared by the participants from Maldives based on the Road Map.

Action Plan – Sri Lanka

Implementation	Priority	Process
Immediate measures	Step I	Consultation with stakeholders.
	Time /Responsibility	<i>October 2009. (DFAR)</i>
	Step II	Identifying each component of their supply chain.
		<i>The above is in place/ annual update required.</i>
	Step III	Segregation of supply sources – those dealing through middlemen/ agents and those directly connected to the exporters.
	Time /Responsibility	<i>The above is in place/ update required-continuing activity. (DFAR)</i>
	Step IV	Ensuring traceability of products originating from fishing fleets directly dealing with the exporters (like tuna fishery).
	Time /Responsibility	<i>Traceability from final product to FV is currently available. Further strengthening required for the traceability of the catch area. Random checking of FV at sea is proposed (1st quarter 2010).</i>
	Step V	Establishing a process of validation of information furnished for other FVs directly dealing with exporters by DFAR.
	Time /Responsibility	<i>Already in place (continuing activity).</i>
	Step VI	For small-scale fisheries clarification should be sought from the EU about actual certification requirements.
	Time /Responsibility	<i>Procedure will be adopted to attach an annexure certified by exporter and validated by CA to each catch certificate to deal with the small crafts. The proposed procedure will be informed to the EU by October 2009. (DFAR-QC)</i>
	Step VII	Consultation with the associated wholesalers and agent/ middlemen and boat owners and awareness building.
	Time /Responsibility	<i>Awareness creation being continued through 2009 – 2010. (DFAR)</i>
Step VIII	Translation of requirement for catch certification in vernacular.	
Time /Responsibility	<i>Translation will be completed by October 2009. (DFAR)</i>	
Corrective medium-term measures	Step IX	Setting up of Landing-centre based Information Centres to collect fisheries information.
	Time /Responsibility	<i>In place</i>
	Step X	Deploying DFAR staff on shore for close monitoring initially during the training phase.
	Time /Responsibility	<i>In place</i>
	Step XI	Using the procedure to collect and validate required information.
	Time /Responsibility	<i>In place</i>
	Step XII	Finalization of National Plan of Action on MCS (<i>NPOA-MCS</i>).
	Time /Responsibility	<i>Arrangements have been made to finalize by end November 2009. (DFAR/ MFAR)</i>
	Step XIII	Review of the existing legislations and addressing the gaps as mentioned above.
Time /Responsibility	<i>Review completed. Regulations will be framed for catch certification by Oct-Dec 2009. (DFAR)</i>	

	Step XIV	Mobilizing non-conventional sources like NGOs, fisher's communities for implementation of NPOA-MCS.
	Time /Responsibility	<i>Being continued.</i>
	Step XV	Bi-lateral discussions with neighbouring countries for information sharing and joint patrolling, etc.
	Time /Responsibility	<i>Ongoing</i>
Long-term measures	Step XVI	Revision/ amendment of fisheries legislation as required.
	Step XVII	Capacity building of DoF and other relevant Ministries/ Departments/ Agencies.
	Time /Responsibility	<i>Being done</i>
	Step XVIII	Consolidation of fisheries sector by improving infrastructure at strategic locations.
	Step XIX	Full implementation of NPOA-MCS.
	Time /Responsibility	<i>2010- End</i>

Note: The Action Plan was prepared by the participants from Sri Lanka based on the Road Map.





**Status of the BOBP-IGO Member-countries with regard to the EU-IUU Regulation
(As on 13 January 2010)**

The information furnished below provides details on the competent authorities notified by India, Maldives and Sri Lanka to the Commission in accordance with Article 20(1) and (2) of the EU-IUU Regulation. This information includes the names of the authorities notified in accordance with Annex III of the EU-IUU Regulation.

Function	Responsible Agency		
	India	Maldives	Sri Lanka
Registration of fishing vessels under the flag of the Flag State.	Marine Product Export Development Authority (MPEDA), Director General of Shipping, Ministry of Shipping, Department of Fisheries of State (Provincial)	Ministry of Housing, Transport and Environment.	Department of Fisheries and Aquatic Resources.
Granting, suspending and withdrawing licences to the fishing vessels of the Flag State.	Governments of West Bengal, Gujarat, Kerala, Orissa, Andhra Pradesh, Karnataka, Maharastra and Tamil Nadu.	Ministry of Fisheries and Agriculture (MoFA) and the Ministry of Economic Development and Trade.	-do-
Attesting the veracity of the information provided in the catch certificates referred to in Article 13 and for validating such catch certificates.	MPEDA	MoFA	-do-
Control and enforcement of laws, regulations and conservation and management measures which must be complied with by fishing vessels.	Directorate General, Shipping, MPEDA, Coast Guard and Department of Fisheries of the State/ Union Territory Governments.	Coast Guard, Maldives National Defense Force and Maldives Police Service.	-do-
The verifications of catch certificates to assist the competent authorities of Member States.	MPEDA	MoFA	-do-
Communication of a sample form of the catch certificate in accordance with the specimen in Annex II.	Department of Commerce (DoC), Ministry of Commerce and Industry.	MoFA	-do-
Updating the notifications.	DoC, and Department of Animal Husbandry, Dairying & Fisheries, Ministry of Agriculture.	MoFA	-do-



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