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 transhipments 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 transhipments, landing and transhipment 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 transhipment 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.

[1] OJ L 286, 29.10.2008, p. 1.

(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 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.

[1] OJ L 281, 23.11.1995, p. 31.

[2] OJ L 8, 12.1.2001, p. 1.

Article 3

Procedures and forms for pre-landing and pre-transhipment 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-transhipment 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-transhipment declaration in electronic format if the Member State whose designated ports of landing and transhipment 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-transhipment declaration either in:

(a) the official language of the Member State of landing or transhipment; or

(b) English if accepted by the Member State of landing or transhipment.

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

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;

(n) prior notification, required under Article 6 of Regulation (EC) No 1005/2008, not transmitted at the proper time or information incomplete;

[1] OJ L 333, 20.12.2003, p. 17.
[2] OJ L 226, 25.6.2004, p. 83.

(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;

(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;

[1] OJ L 253, 11.10.1993, p. 1.

(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.

Article 46

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.

CHAPTER IV

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.

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.

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

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):

Dates

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

Fishing authorisation

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

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 transhipment (if transhipment has taken place elsewhere than the port of landing)	17. Area or port of transhipment (FAO (ICES) area, FAO (ICES) division, FAO (ICES) 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) subdivision 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, transhipment 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 transhipment (if transhipment has taken place elsewhere than the port of landing)	6. Area or port of transhipment (FAO (ICES) area, FAO (ICES) division, FAO (ICES) subdivision 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 points 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:

Departure information

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

Landing information

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

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 or port of transhipment (FAO (ICES) area, FAO (ICES) division, FAO (ICES) subdivision 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) subdivision 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

ANNEX IIIB

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:

Departure information

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

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:

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 or port of transhipment (FAO (ICES) area, FAO (ICES) division, FAO (ICES) subdivision and if relevant ICES statistical rectangle and fishing effort zone)	21. Name of the species (FAO alpha-3 code)	22. Catch area (FAO (ICES) area, FAO (ICES) division, FAO (ICES) subdivision 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 transhipped (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's 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)

30. Name and address of vessel owner:
31. Name of master of vessel/representative:
32. Signature:
33. Date:

If catching vessel fill in points 1-18 plus 21-33

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

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

(*) 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 authorised (*)**	**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: ..... Name:	Date: ..... 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**

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

	..... (certificate number)
1. **Holder of the APEO certificate**	2. **Issuing authority**
3. **Date from which the certificate is effective**	

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 organisational 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, subarea, division: _____

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

Radio contact made with the vessel: Yes ☐ No ☐

Details of person(s) contacted 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 sightings (e.g. by photograph or video): _____

Comments: _____

_____

Photograph or sketch of vessel, indicating distinguishing structures, profile, masts and markings:

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/subarea/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	*Provide all information available for the identification of concerned fishing vessels, masters, holders of fishing licences and/or fishing authorisations, owner, etc*
Information requested on	
☐ **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)***	*Provide detailed questions and necessary background information and justification for the request*
☐ **possible infringements of Regulation (EC) No 1005/2008** ***Article 45(1)***	*Provide detailed questions and necessary background information and justification for the request*
Request to carry out administrative enquiries ***Article 45(2)***	*Provide detailed questions and necessary background information and justification for the request*
Request for the supply of documents or certified true copies in the possession of the requested authority ***Article 45(4)***	*Provide detailed questions and necessary background information and justification for the request*
Any other general information or question	

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	
Information requested on	
☐ **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**	*Provide all relevant information available or gathered in the context of the request*
☐ **possible infringement of Regulation (EC) No 1005/2008**	*Provide all relevant information available or gathered in the context of the request*
☐ **Request to carry out administrative enquiries** ***Article 45(2)***	*Provide details and results of the administrative enquiries carried out*
☐ **Request for the supply of documents or certified true copies in the possession of the requested authority** ***Article 45(4)***	*List the documents provided and attached as annex to this reply form*
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	*Provide all information available for the identification of the addressee of the administrative notification*
Information on the subject of the instrument or decision to be notified	*Provide all possible information on the subject of the instrument or decision to be notified*

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**	 *Indicate date in case of successful notification* *Indicate reasons in case of failed notification*
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 tschawytscha, 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 tschawytscha, 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)

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

— 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 tschawytscha, 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, 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 tschawytscha, 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 tschawytscha, 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 prepare 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