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WORKING DOCUMENT

**GUIDANCE DOCUMENT FOR VETERINARY CONTROLS ON
CONSIGNMENTS OF FISHERY PRODUCTS
ORIGINATING FROM THIRD COUNTRIES**

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PURPOSE OF THIS DOCUMENT

This document is mainly directed at competent authorities and more specifically at border inspection posts, and aims to give guidance on the implementation of the requirements governing the import and transit control system for consignments of fishery products originating from third countries.

NOTE

This document is an evolving document and might be updated to take account of experiences and information from the Member States, from competent authorities and private operators in third countries, from importers and from the Commission's inspection service, the Food and Veterinary Office (FVO).

ABBREVIATIONS AND DEFINITIONS USED IN THE GUIDANCE DOCUMENT

BIP	Border Inspection Post as defined in Council Directives 97/78/EC
CVED	Common veterinary entry document for products of animal origin as laid down in Annex III to Commission Regulation (EC) No 136/2004
DG MARE	Directorate General for Maritime Affairs and Fisheries
DG SANCO	Directorate General Health and Consumer
EU	European Union
HC	All products for human consumption
MS	Member State
OJ	Official Journal of the European Commission
RASFF message	Messages used in the Rapid Alert System for Food and Feed of the European Commission
TRACES	TRAdE Control and Expert System introduced by Commission Decision 2004/292/EC

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1. PURPOSE

The purpose of this guidance is to achieve a common understanding in the Member States (MS) on the implementation of the import and transit control procedures for consignments of fishery products from third countries.

2. BACKGROUND

The main EU legislation on border import controls concerning public and animal health are Council Directives 91/496/EEC¹ and 97/78/EC². These two Directives set out the veterinary procedures to be followed in order to import into or transit through the EU commercial consignments of live animals and products of animal origin. In relation to animal health requirements, Council Directive 2002/99/EC³ requires that consignments of animal products intended for human consumption, Council Directive 2006/88/EC⁴ requires that consignments of aquaculture animals and products thereof and Regulation (EC) No 1774/2002⁵ requires that consignments of animal products not for human consumption have to fulfil animal health requirements. There are specific derogations in relation to the fulfilment of the animal health requirements for consignments of animal origin moved between Russia and Russia (Kaliningrad).

All consignments of live animals and products of animal origin introduced into the territory of the EU must be presented at an EU approved border inspection post (BIP) to undergo mandatory veterinary checks.

3. IMPORT AND TRANSIT OF FISHERY PRODUCTS

3.1. The fundamental principle

The fundamental principle for the import of fishery products is that consignments imported into or transited through the Community must be checked at BIPs approved generally for all products of human consumption (HC) or specifically for fishery products and also for the relevant temperature category (ambient, chilled and frozen) and listed in Annex I to Commission Decision 2009/821/EC⁶. They must be accompanied by a *health certificate issued by the competent authority of the third country of dispatch* (Article 14 (1) in conjunction with Point 1, first sentence, of Annex VI to Regulation

¹ Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organisation of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC, OJ L 268, 24.9.1991, p 56

² Council Directive 97/78/EC laying down principles governing the organisation of veterinary checks on products entering the Community from third countries, OJ L 24, 30.01.1998, p 9

³ Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption, OJ L 18, 23.01.2003, p 11

⁴ Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals, OJ L 328, 24.11.2006, p 14

⁵ Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption, OJ L 273, 10.10.2002, p 1

⁶ Commission Decision 2009/821/EC of 28 September 2009 drawing up a list of approved border inspection posts, laying down certain rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in Traces, OJ L 296, 12.11.2009, p 1

(EC) No 854/2004⁷), however, this is subject to certain exceptions which are referred to below under points 3.5.1., 3.5.2. and 3.6.1.

3.2. Procedures at the BIP

Each consignment of fishery products has to be notified to the relevant BIP by the person responsible for the load with the information requested in the first part of the Common Veterinary Entry Document (CVED) **before** its physical arrival on Community territory (Article 3 (3) of Directive 97/78/EC and Article 2 (1) of Regulation (EC) No 136/2004⁸) The CVED shall be used to notify the arrival of the products to the BIP and the notification can be forwarded using the computerised TRACES system.

On arrival of the consignment at the BIP, a documentary and identity check is carried out on 100 % of consignments. This is to ensure that the correct health certificate accompanies the consignment, that it comes from an approved third country, from an approved establishment and that the data on the health certificate match with those on the packages, labels of the consignment. Consignments of aquaculture products have to come from third countries with an approved residue control plan as listed in the Annex to Commission Decision 2004/432/EC⁹. In case of container transport the identity check may be confined to a seal check only.

In addition physical checks are carried out, the percentage of which is depending on the harmonisation status of the third country of origin as specified in Annex I and Annex II to Commission Decision 94/360/EC¹⁰. The physical check cannot be reduced for fishery products originating from third countries with specific risks, for which a safe guard Decision is in place or for products for which a Rapid Alert message (RASFF) has been sent; in these cases the consignment has to stay in the BIP until the results of the physical checks including laboratory tests are available.

As part of the physical check, a laboratory test may be carried out in accordance with the national monitoring plans of each MS to verify that the product does not contain any residues, contaminants, pathogens or other substances dangerous for animal and public health.

After the result of the veterinary checks is available, the CVED can be issued to either release the consignment for free circulation, for transit to third countries or storage in specific approved warehouses or to reject it in case of non-compliances with EU law.

3.3. Landing and transshipment operations of fishery products

MS have to designate ports, or places close to the shore, where landings or transshipment operations of fishery products are permitted and port services are accessible for third-

⁷ Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, OJ L 139, 30.4.2004, p 206. Corrected version in OJ L 226, 25.06.2004, p 83

⁸ Commission Regulation (EC) No 136/2004 of 22 January 2004 laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries, OJ L 21, 28.01.2004, p 11

⁹ Commission Decision 2004/432/EC of 29 April 2004 on the approval of residue monitoring plans submitted by third countries in accordance with Council Directive 96/23/EC, OJ L 154, 30.04.2004, p 42

¹⁰ Commission Decision 94/360/EC of 20 May 1994 on the reduced frequency of physical checks of consignments of certain products to be implemented from third countries, under Council Directive 90/675/EEC, OJ L 158, 25.06.1994, p 41

country fishing vessels, as provided for in Article 5 (1 and 2) of Council Regulation (EC) No 1005/2008¹¹.

The list with these ports has been published in the Official Journal (OJ) C 320 on 24.12.2009, page 13 (2009/C 320/06) and it is accessible on the internet on the following link:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:320:0013:0016:EN:PDF>

Several MS did not designate ports for landings or transshipments from third country fishing vessels and such operations cannot take place in these MS or ports not listed in that list. Amendments to this list will be provided on the website of DG MARE on the following link:

http://ec.europa.eu/fisheries/cfp/external_relations/illegal_fishing_en.htm

The ports marked with an asterix in this list do not have a BIP with the possibility for veterinary checks. This means that in these ports no frozen fish may be landed or transhipped directly from fishing vessels flying a third country flag.

DG MARE has published a handbook for frequent asked questions in relation to the implementation of the above Regulation, which contains useful information and is accessible on the above mentioned link.

3.4. Health certificate: third country of dispatch

A question raised by various MS concerns the country of dispatch in the sense of Article 14 (1) in conjunction with Point 1, first sentence, of Annex VI to Regulation (EC) No 854/2004. While the third country of dispatch will often be the third country of origin from whose territory the consignment is dispatched to the EU, this is not the case when for example the following operations take place in a different third country than the third country of origin:

- unloading of a bulk transport, including palletized packages, from a fishing, freezer or factory vessel into the territory of another listed third country and re-loading into a transport container destined to the EU,
- unloading of fishery products and temporary storage in an approved cold store, independently from its status as a customs or free warehouse or its location in a free zone, and re-loading into a transport container or directly into a vessel destined to the EU,
- or any handling or processing of unloaded fishery products in approved establishments and their re-loading into a transport container or directly into a vessel destined to the EU.

In these cases the "third country of dispatch" in the sense of Annex VI to Regulation (EC) No 854/2004 is the third country in which these operations take place and a health certificate must be issued by the competent authorities of that third country:

¹¹ Commission Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999, OJ L 286, 29.10.2008, p 1

In the health certificate the competent authority of that third country has to certify, amongst other things, that landing, handling and transporting of the fishery products were in compliance with the requirements laid down in Regulation (EC) No 853/2004¹² and that the products have satisfactorily undergone the official controls laid down in Annex III to Regulation (EC) No 854/2004 (see Article 14 (2) of Regulation (EC) No 854/2004 and the health certificate for fishery products in Appendix IV to Annex VI to Regulation (EC) No 2074/2005¹³ as amended, in particular points II.1, II.2.3.2. and II.2.3.3 thereof).

By contrast, where fishery products originate from a first third country and arrive in a second third country but stay in their sealed transport container so that the sanitary status of the consignment does not change, there is no need for certification in accordance with the provisions referred to above. This is because there is no new dispatch in the sense of Annex VI to Regulation (EC) No 854/2004 and therefore the country from where the consignment came originally and where the fishery products were loaded into the transport container remains the country of dispatch. In such cases normally a non-manipulation certificate is issued by the second third country to ensure that the transport container had not been opened and that no handling of the products has taken place.

The same principles apply in relation to the veterinary certificate required under Article 9 in conjunction with Annex IV to Directive 2002/99/EC laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption.

3.5. Health certificate: exceptions to Article 14 (1) in conjunction with Point 1, first sentence, of Annex VI to Regulation (EC) No 854/2004

3.5.1. Direct imports in the sense of Article 15 (3) of Regulation (EC) No 854/2004

According to Article 15 (3), a document signed by the captain may replace the health certificate required under Article 14 (1) if the products are imported *directly* from a fishing or freezer vessel. Direct import means that the relevant consignment has never been landed anywhere before. It cannot be considered that there has been a *direct* import from a fishing or freezer vessel within the meaning of Article 15 (3) of Regulation (EC) No 854/2004 where the relevant consignments were unloaded or changed from bulk, including palletized packages, into container transport. As a consequence, such operations trigger the necessity of a health certificate in the sense of Article 14 in conjunction with Annex VI to Regulation (EC) No 854/2004 issued by the authorities of the country where they took place, which is deemed to be the third country of dispatch (see examples point 3.4).

¹² Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin, OJ L 139, 30.04.2004, p 55 and re-published in OJ L 226, 25.06.2004, p 22

¹³ Commission Regulation (EC) No 2074/2005 of 5 December 2005 laying down implementing measures for certain products under Regulation (EC) No 853/2004 of the European Parliament and of the Council and for the organisation of official controls under Regulation (EC) No 854/2004 of the European Parliament and of the Council and Regulation (EC) No 882/2004 of the European Parliament and of the Council, derogating from Regulation (EC) No 852/2004 of the European Parliament and of the Council and amending Regulations (EC) No 853/2004 and (EC) No 854/2004, OJ L 338, 22.12.2005, p 27

3.5.2. **Direct landing** in the sense of Article 15 (1) in conjunction with Annex III to Regulation (EC) No 854/2004

The specific rules on *direct landing* of fishery products from fishing vessels flying the flag of a third country, laid down in Article 15 (1) in conjunction with Annex III to Regulation (EC) No 854/2004 and in Article 19 (2) first subparagraph of Directive 97/78/EC, apply exclusively to *fresh* fishery products (see point 3.6.1). This means that only *fresh* fishery products which are landed directly by fishing vessels can benefit from this exception. They do not apply to frozen products arriving on a freezer vessel. **Frozen fishery products always have to be imported via a BIP.**

The term "*fresh fishery products*" is defined at Point 3.5 of Annex I to Regulation (EC) No 853/2004, which reads:

"'Fresh fishery products' means unprocessed fishery products, whether whole or prepared, including products packaged under vacuum or in a modified atmosphere, that have not undergone any treatment to ensure preservation other than chilling."

The term "chilling" does *not* include "freezing".

3.6. Exceptions for fishery products from veterinary checks in a BIP

3.6.1. *Fresh fishery products directly landed by fishing vessels*

Article 19 (2) of Directive 97/78/EC and Article 15 (1) of Regulation (EC) No 854/2004 derogate from the veterinary checks in the BIPs, if **fresh fishery products are landed directly from a fishing vessel flying a third-country flag at Community ports**. In such cases the same health and veterinary checks are foreseen to be carried out, as those carried out for **fish directly landed by fishing vessels flying the flag of a MS**. These checks are normally carried out by the local health or veterinary authority (as provided for in Annex III to Regulation (EC) No 854/2004).

The Community ports designated by MS for direct landings of fresh fishery products are laid down in the list published by DG MARE as described in Chapter 3.3, which is accessible with the following link:

http://ec.europa.eu/fisheries/cfp/external_relations/illegal_fishing_en.htm.

3.6.2. *Specific conditions for frozen and deep-frozen tuna*

Another derogation from the veterinary checks in the BIP of entry is foreseen for frozen and deep-frozen tuna, which is landed directly without having been beheaded or gutted from a vessel belonging to the establishment of destination registered in accordance with the relevant Community provisions under the following conditions (Article 19 (2) of Directive 97/78/EC): the import checks need to be carried out by the competent authority of the nearest BIP (not more than 75 km) in the approved establishment of destination and the products are transported under customs control from the point of landing to the establishment of destination.

However, those MS wishing to avail of this derogation need to be authorised under the procedure provided for in Article 29 of Directive 97/78/EC. Currently no Commission Decision validating the specific conditions for frozen and deep-frozen tuna is applicable and consequently all consignments of such fish have to be landed in ports with BIPs to ensure veterinary checks are being carried out.

3.7. Health certificates signed by the captain or another officer of a *factory* vessel in accordance with Article 14 in conjunction with Annex VI Point 1, third sentence, to Regulation (EC) No 854/2004.

Health certificates may be signed by the captain or another officer of a *factory* vessel (Article 14 in conjunction with Annex VI Point 1, third sentence, of Regulation (EC) No 854/2004). The competent authorities of the MS must check that those documents offer the necessary guarantees and, where appropriate, verify the necessary authorisation of the relevant captains and ship officers with the competent authorities of the relevant third country.

3.8. Transhipment operations of fishery products

The person responsible for the load must notify transhipments to the official veterinarian responsible at the BIP of arrival at the time of arrival and by a means fixed by the competent authority, of the estimated time of unloading of the consignment, the BIP of destination, and if necessary the exact location of the consignment as provided for in Article 1 of Decision 2000/25/EC¹⁴.

Derogations for veterinary checks in the BIP of first arrival are provided for consignments staying a limited period on the quayside and being transhipped to a second BIP for importation into the EU or to a third country. Details concerning the checks to be carried out are under development in the form of a guidance document, which is currently under discussion with the MS:

Before the minimum time period laid down in Article 2 of Decision 2000/25/EC has elapsed:

In case of transhipments destined for the import in the EU in a second BIP Art. 9 (1) (a) of Directive 97/78/EC clarifies that MS may carry out a documentary check exceptionally, if there is a risk to animal or public health. This check may be carried out on the basis of the certificate or veterinary document of origin or any other original document accompanying the consignment concerned or an authenticated copy thereof.

In case of transhipments destined for a third country which are not unloaded from the vessel the documentary check will be confined to the examination of the on-board manifest (Art. 11 (2) (b) 2nd paragraph first indent of Directive 97/78/EC). If they are unloaded from the vessel, the rules laid down in Art. 9 (1) (a) of Directive 97/78/EC are applicable.

After the minimum time period laid down in Art. 2 of Decision 2000/25/EC has elapsed, a documentary check must be carried out in the first BIP; the identity and physical check will be carried out in the second BIP in the EU.

After the maximum time period laid down in Art. 2 of Decision 2000/25/EC has elapsed, an identity and physical check must be carried out in the first BIP.

¹⁴ Commission Decision 2000/25/EC of 16 December 1999 establishing the detailed rules for the application of Article 9 of Council Directive 97/78/EC concerning the transhipment of products at a Border Inspection Post where the consignments are intended for eventual import into the European Community, and amending Commission Decision 93/14/EEC, OJ L 9, 13.01.2000, p 27

4. IMPORT AND TRANSIT OF LIVE FISH FOR HUMAN CONSUMPTION

The definition for "products of animal origin" in Article 2 (4) of Directive 2002/99/EC includes live animals where they are prepared for human consumption. In such cases the relevant consignment receives in the BIP the CVED for products (as provided for in Annex III to Regulation (EC) No 136/2004) and may be checked in the part of the BIP facilities for products for human consumption.

Such consignments may arrive with the health certificate for fishery products or for live bivalve molluscs intended for human consumption as laid down in Appendix IV and V of Annex VI to Regulation (EC) No 2074/2005 as amended or with the health certificate for live aquaculture animals, fish eggs and uneviscerated fish intended for human consumption as laid down in Part C of Annex IV to Regulation (EC) No 1251/2008¹⁵ as amended. In all cases in box I.25 of the relevant certificate human consumption has to be indicated.

Further details can be found in Chapter 4 of the *Guidance document on the animal health requirements for placing on the market, import and transit of aquaculture animals according to Council Directive 2006/88/EC and Commission Regulation (EC) No 1251/2008* (SANCO 4788/2009/rev 3), which is published under

<http://ec.europa.eu/food/animal/liveanimals/aquaculture/SANCO-4788rev3.pdf>.

5. GENERAL AND SPECIFIC INFORMATION ON IMPORT AND TRANSIT CONTROLS

More general and specific information on import controls is available on the DG SANCO website for veterinary border controls under:

http://ec.europa.eu/food/animal/bips/index_en.htm

The scientific and common names of various fish species can be found in Fish Base under:

<http://fishbase.sinica.edu.tw/search.php>.

¹⁵ Commission Regulation (EC) No 1251/2008 of 12 December 2008 implementing Council Directive 2006/88/EC as regards conditions and certification requirements for the placing on the market and the import into the Community of aquaculture animals and products thereof and laying down a list of vector species, OJ L 337, 16.12.2008, p 41