SALT
SEAFOOD ALLIANCE FOR LEGALITY & TRACEABILITY

Seafood Import Regulation Guide
(EU, Japan, and the U.S.)

USAID FROM THE AMERICAN PEOPLE
WALTON FAMILY FOUNDATION
the David & Lucile Packard FOUNDATION
GORDON AND BETTY MOORE FOUNDATION
FISH WISE

About SALT

The Seafood Alliance for Legality and Traceability (SALT) is a global community of governments, the seafood industry, and non-governmental organizations (NGOs) working together to share ideas and collaborate on solutions for legal and sustainable seafood, with a particular focus on traceability—the ability to track the movement of seafood through supply chains. SALT is a public-private partnership between the United States Agency for International Development (USAID) and the Packard, Moore, and Walton Family Foundations and is implemented by FishWise, a sustainable seafood consultancy.

About This Document

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Globalization of the seafood industry and increased fishing efforts to compensate for declining resources have elicited illegal, unreported, and unregulated (IUU) fishing practices. These unsustainable practices are often connected to human rights abuses and other unlawful activities, putting global seafood supply chains at risk. To identify and begin to mitigate these risks, governments are increasingly recognizing the importance of more transparent and traceable seafood supply chains.

One tool governments have leveraged to create more transparency is digitally tracking seafood products (and its associated information) as they move throughout supply chains. This digitization greatly helps producers, exporters, and importers meet government regulations. However, unfolding the government regulations and import requirements remains complex. This document provides a high-level summary of current import control regulations and legal requirements (with respect to ecological, social, and economic aspects) from the three major market states—EU, Japan, and the U.S.—for seafood producing countries seeking to expand their markets.

Details of each regulation and associated documents can be found on the SALT website.

EUROPEAN UNION

In 2008, the EU Directorate-General for Maritime Affairs and Fisheries introduced Council Regulation (EC) No 1005/2008, a community system to prevent, deter, and eliminate IUU fishing, often known as the EU IUU Regulation. The EU IUU Regulation is a transparent and non-discriminatory framework that applies to all marine wild-caught fish traded by non-EU countries into the EU markets. The regulation requires that all marine fishery products (with a few exceptions[1]) include catch certificates validated by a competent flag state. The exporting state must have adequate measures to prevent and deter IUU fishing in its waters or risk receiving a warning (yellow card) from the EU that signals a formal demand for improvement. If these 'yellow-carded' countries fail to improve according to the EU's requests, they can face an EU market ban on their seafood (red card). To streamline and automate the process, the EU launched CATCH[2], a digital management tool for the catch certification scheme, in 2019. Although the revised policy has included CATCH, the use of the system remains voluntary for exporting countries.

The EU also implemented food safety regulations to enforce quality and hygiene controls throughout supply chains—from the fishing vessel or aquaculture farm to the consumer's table. Governed by the Directorate-General for Health and Food Safety, Regulation (EU) 2017/625 sets an overarching policy for EU's food safety. This policy centers around the concept of **traceability, which means tracking product's data inputs and outputs** to ensure that imports from outside the EU meet the same standards and go through the same checks as food produced within the EU.

In addition to the above requirements to import seafood products into the EU, the exporting state must also be on the 'positive list of eligible countries' under the Commission Implementing Regulation (EU) 2021/405. Exporters from the listed state must also prove that the products meet the EU's hygiene standards from production to distribution by submitting the Commission Implementing Regulation (EU) 2020/2235 (EU Export Health Certificate), signed by the exporting state's authority. This Health Certificate includes detailed descriptions of consignment, product origin, safety, identity, and legality. When the authority signs the Health Certificate, they certify that they will provide the necessary guarantees, carry out regular inspections of vessels and establishments, and take corrective actions to meet the EU's requirements.

[1] Listed in Annex I of the Regulation

[2] The CATCH application uses the TRACES.NT system developed by the European Commission, which is a digital management tool for all sanitary requirements on importation of animals, food, feed and plants, widely used since early 2000s. https://webgate.ec.europa.eu/tracesnt-help/Content/Q_CATCH/0.Intro.htm

JAPAN

In December 2020, Japan passed the Domestic Trade of Specific Marine Animals and Plants Act to prevent IUU-sourced seafood from entering the Japanese market, becoming the third major importing country, after the EU and U.S., to address the legality of imported seafood. Once the act takes effect in December 2022, Japan will require a catch documentation scheme (CDS) for fishery products vulnerable to IUU fishing. The Fisheries Agency will announce the full details of the act in December 2021.[3] As of August 2021, the Fisheries Agency is considering pacific saury, squid, mackerel, and sardine as the targeted species list when enforcement begins. The list will be reviewed every two years and updated as necessary.

Japan also has specific regulations in place for the tuna trade. The Law of Special Measures for Strengthening Conservation and Management of Tuna Resources enforces Regional Fisheries Management Organizations' (RFMOs) CDS requirements, including those from the Commission for the Conservation of Southern Bluefin Tuna and the International Commission for the Conservation of Atlantic Tunas. This CDS requirement also applies to species protected under the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), such as Patagonian and Antarctic toothfish. The Ministry of Agriculture, Forestry, and Fisheries governs all frozen tuna-kind trade in this regard, requiring a pre-confirmation process[4] for all frozen bluefin tuna, bigeye tuna, and swordfish. The pre-confirmation application form must be accompanied by basic documentation, such as a registration certificate from the vessel's flag state, statistical document, and transshipment declaration. Yellowfin tuna, other tuna varieties, and marlins have similar importing processes and documentation requirements.

At the intergovernmental level, the Agreement Between the Government of the Russian Federation and the Government of Japan on Conservation, Rational Use and Management of Live Aquatic Resources in the North-Western of the Pacific Ocean and Prevention of Illegal Trade of Live Aquatic Resources has been in full effect since 2014. This bilateral agreement between Russia and Japan aims to eliminate IUU-sourced crab products from Russia to enter the Japanese market. All crab products from Russia must be accompanied by a certificate issued by the Russian Federal Fisheries Agency. The Japanese Ministry of Economy, Trade, and Industry also requires the

[3] Listed in the working group's agenda https://www.jfa.maff.go.jp/j/kakou/attach/pdf/tekiseika_kaigi-3.pdf
[4] Importers must submit required documentations and consult with MAFF prior to importing the products. MAFF offers a checklist to layout required documentations for each species and its product form.

certificate of origin for high-value crab species such as king, snow, and horsehair crabs from the exporting countries to prevent a fraudulent claim of product origin.

Furthermore, the Ministry of Health, Labour, and Welfare has issued Guidelines on Hygiene Control of Import Processed Foods[5] that ensure food safety and hygiene at each processing stage of the product. Although the Guideline's primary focus is food safety, it also includes traceability and product legality information, such as lot control, tracking of raw materials, and compliance with the exporting country's regulations.

THE UNITED STATES

Four main trade monitoring programs, overseen by the National Oceanic and Atmospheric Administration (NOAA), govern the U.S. to help ensure seafood is caught and imported legally.[6] Created in 2018, the largest and newest program—the Seafood Import Monitoring Program (SIMP)—establishes reporting and recordkeeping requirements for 13 seafood species groups identified as vulnerable to IUU fishing. Importers must both report information when they reach the U.S. and retain information about the harvesting or producing entity, the harvest event (what, when, and where), and the importer of record. This information is used to trace these products back to the point of harvest or producer and verify their legality.

The remaining three programs are more narrowly focused. The Tuna Tracking and Verification Program monitors domestic cannery production and imported frozen and processed tuna products. This program requires seafood importers to fill out a Fisheries Certificate of Origin (NOAA 370) with information including, but not limited to: species, catch area, gear used, trip dates, and vessel name. The Atlantic Highly Migratory Species International Trade Program establishes import requirements for highly migratory species (i.e., tunas and swordfish) caught in the Atlantic, Pacific, and Indian Oceans. This program also implements traceability requirements set by international organizations that manage shared fisheries (e.g., RFMOs). Information can be collected on product origin, identity, and legality through those organizations' own forms (e.g., catch documentation, statistical documents, export and re-export certificates). The final trade monitoring program is the Antarctic Marine Living Resources Program, designed to monitor the trade of Antarctic krill and Patagonian and Antarctic toothfish

[5] Annex to Notice Shoku-an No. 0605001 of June 5th, 2008

[6] Data from all four programs is submitted through the International Trade Data System (ITDS) - the U.S. government's single trade data portal. This system allows NOAA Fisheries to trace monitored species and products back to their point of origin and ensure seafood is caught and imported legally.

(i.e., Chilean sea bass). The CDS for toothfish allows for monitoring this species' international trade, tracking the origin of imports, and determining whether conservation measures set out by the CCAMLR are being followed.

The U.S. has also established food safety requirements that help ensure the safety and security of U.S. food supply chains by shifting from responding to food-borne illnesses and post-processing contamination to preventing them. Passed in 2011, the Food and Drug Administration (FDA) finalized seven major rules to implement the Food Safety and Modernization Act (FSMA). Of these seven rules, the Current Good Manufacturing Practice, Hazard Analysis, and Risks-Based Preventive Controls for Human Food, also known as 'Preventative Controls Rule,' is the most relevant and integral to FSMA. The foundation of the Preventative Controls Rule is based on the risk-based Hazard Analysis and Critical Control Point, or HACCP, approach for maintaining a safe food supply. HACCP essentially requires processors and facilities to proactively identify food safety hazards that are reasonably likely to occur and develop plans for those hazards.

More recently, in early 2021, the FDA proposed a new traceability rule[7]—Requirements for Additional Traceability Records for Certain Foods—that will operationalize part of the FSMA by requiring certain information to be collected along supply chains. Information on food safety, product origin, and product identity aims to support end-to-end traceability and harmonize tracing activities by requiring supply chain data to verify mass balance and chain of custody. It also aims to prevent or mitigate food-borne illness outbreaks and address credible threats.

Along with import regulations that monitor product origin and food safety, the U.S. has established two regulations addressing social responsibility and labor rights for imported products. The Trade Facilitation and Enforcement Act (TFTEA), signed in 2016, strengthens the capabilities of the U.S. Customs and Border Protection (CBP) to enforce U.S. trade laws and regulations. It prohibits all products made by forced labor, including child labor, from being imported into the U.S. Under the TFTEA, the importer is responsible for undertaking reasonable care (i.e., due diligence) regarding human rights and legality risks in its supply chains. In addition, the Countering America's Adversaries Through Sanctions Act (CAATSA) was signed in 2017, effectively imposing sanctions on Iran, Russia, and North Korea. For goods to be imported into the U.S., CBP must find clear and convincing evidence that the goods were not produced with convict, labor, or indentured labor. CAATSA also reiterates the need for comprehensive due diligence by, and on behalf of, companies importing goods into the U.S.

[7] As of August 2021, this remains a proposed rule. Companies will have two years after the effective date of the final regulation to come into compliance with this rule.

CONCLUSION

Importing countries are increasingly turning to import control and catch documentation schemes and modernizing outdated regulations to ensure safe, ethical, and legal seafood supply chains. While we applaud this effort, there are clearly opportunities to strengthen and fine-tune these legal instruments to close loopholes and keep illegal products from entering markets. Furthermore, seafood producing countries have the authority and responsibility to implement policies to reduce risks to workers and the ecological and economic benefits of their fisheries and livelihoods that depend on it.

The complex nature of these issues demands an integrated and collaborative approach. Increasing alignment across data requirements could support inter-governmental capacity-building efforts, knowledge sharing, and joint enforcement initiatives.

One way to achieve that is to enact electronic catch documentation and traceability (eCDT), the practice of digitally collecting, sharing, and tracking verifiable information about the harvesting, processing, and transportation of seafood products. This approach can support the smooth transaction of data that could also be used to strengthen fisheries management, support legal and equitable work conditions for seafood laborers, and identify and prevent illegal and mislabeled products from entering international supply chains and markets.

SALT's strategies included developing principles or best practices for "comprehensive" eCDT programs that address social, economic, and ecological goals. To learn more about the comprehensive eCDT Principles, please visit https://www.salttraceability.org/traceability-principles/.