



Note:

This version is for preliminary information only.
The Ordinance published in the Official Collection
(AS) is decisive.

Ordinance on control of the lawful origin of imported marine fishery products

of 20 April 2016

The Swiss Federal Council,

based on Articles 7 para. 2 letter a, 9 para. 1, 12 para. 5, 13 para. 3, 20 para. 4, 21 and 26 para. 5 of the Federal Act of 16 March 2012¹ on the Trade in Protected Animal and Plant Species (FA-CITES),

decrees:

Section 1: General provisions

Art. 1 Purpose

The purpose of this Ordinance is to ensure that only fishery products of lawful origin are imported.

Art. 2 Scope

1 This Ordinance applies solely to marine fishery products.

2 It does not apply to:

- a. aquaculture products obtained from fry or larvae;
- b. fishery products which are not intended for use as foodstuffs.

Article 3 Definitions

For the purposes of this Ordinance, the following definitions apply:

- a. *flag state*: the state in which a fishing vessel is registered and whose flag it flies;
- b. *consignment*: fishery products which are dispatched to an importer at the same time or under a single transport document;

¹ SR 453

- c. *responsible persons*:
 - 1. persons as referred to in Article 26 of the Customs Act of 18 March 2005² (CustA),
 - 2. persons who import or commission the import of fishery products;
- d. *CVED*: common veterinary entry document as referred to in Article 1 of Regulation (EC) No 282/2004³ and Annex III to Regulation (EC) No 136/2004⁴;
- e. *health certificate*: document certifying the origin of a consignment and compliance with animal health, animal welfare and food hygiene requirements;
- f. *border inspection post*: establishment at which the border veterinary check is carried out.

Section 2: Import conditions

Art. 4 Principle

1 Fishery products as referred to in Annex 1 may be imported commercially if:

- a. they are of lawful origin; and
- b. they are accompanied by the necessary documents.

2 Fishery products which do not originate from a flag state as referred to in Annex 2 must also be accompanied by a catch certificate. Imports of these fishery products are subject to the pre-declaration procedure described in Section 3.

Art. 5 Lawful origin

1 Fishery products are of lawful origin if they are not obtained from illegal, undeclared or unregulated fishing.

2 Fishery products are not obtained from illegal, undeclared or unregulated fishing if they come from catches which:

- a. were made by fishing vessels which:
 - 1. have been properly registered by the flag state,
 - 2. are clearly identifiable,
 - 3. are not subject to any restrictions imposed by individual states, communities of states or regional fishery organisations,
 - 4. hold the necessary licences to catch the fish species concerned, and

² SR 631.0

³ Commission Regulation (EC) No 282/2004 of 18 February 2004 introducing a document for the declaration of, and veterinary checks on, animals from third countries entering the Community, OJ L 49 of 19.2.2004, p. 11; last amended by Regulation (EC) No 585/2004, OJ L 91 of 30.3.2004, p. 17.

⁴ 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 of 28.1.2004, p. 11; last amended by Commission Implementing Regulation (EU) No 494/2014, OJ L 139 of 14.5.2014, p. 11.

5. pursue their fishing activities in compliance with the rules laid down by individual states and the competent regional fishery organisations;
- b. were declared on landing in accordance with the rules laid down by individual states or the competent regional fishery organisations; and
- c. do not exceed the fishing quotas applying to the species concerned.

Art. 6 Catch certificate

- 1 The catch certificate confirms that the fish species and catches indicated were lawfully caught by a vessel licensed to pursue fishing activities during a specific period, in a specific fishing zone or by a specific fishing method.
- 2 The certificate must be validated by the flag state of the fishing vessel that made the catches from which the fishery products are derived.
- 3 The catch certificate must include the information specified in the model in Annex 3.

Art. 7 Accompanying documents

- 1 Accompanying documents are the following documents for each consignment:
 - a. the invoice;
 - b. the consignment note or other transport documents;
 - c. for processed fishery products: the processing declaration;
 - d. for consignments from outside the European Union (EU): the health certificate issued by the competent authority, or the CVED.
- 2 The processing declaration must include the information specified in the model in Annex 4.

Art. 8 Import prohibition

It is prohibited to import fishery products as referred to in Annex 5 which come from the flag states listed therein.

Section 3:
Pre-declaration procedure for consignments not originating in flag states listed in Annex 2

Art. 9 Pre-declaration of the consignment

- 1 Consignments of fishery products which do not originate from flag states listed in Annex 2 must be pre-declared to the Federal Food Safety and Veterinary Office (FSVO) by the responsible person at least three working days before the intended date of import.
- 2 The FSVO may grant a shorter period if justified.

3 For the pre-declaration, the responsible person must enter the following scanned documents into the information system referred to in Article 21 FA-CITES ('information system'):

- a. the catch certificate;
- b. the accompanying documents as referred to in Article 7 paragraph 1, where available at the time of pre-declaration.

4 The responsible person must also enter the data referred to in Article 20 paragraph 1 letters a to f into the information system.

Art. 10 Release of the consignment

1 The FSVO checks the data reported in the pre-declaration.

2 It releases the consignment if the information in the scanned catch certificates is complete and correct, and tallies with the information in the scanned accompanying documents.

3 If the information in the scans shows minor deficiencies, the FSVO grants an extension of seven working days in which to rectify them. Once they have been rectified, the FSVO releases the consignment.

4 The FSVO assigns a release number to released consignments.

5 The release number allows the responsible person to declare the consignment to customs.

Section 4: Obligations of responsible persons

Art. 11 Import register and obligation to retain documents

1 Responsible persons must keep a register of imports of fishery products.

2 They must keep the accompanying documents and, where applicable, the catch certificates for three years after the import of consignments.

Art. 12 Obligation to provide information

1 Responsible persons must provide information on the identity and origin of consignments to the control bodies on request.

2 They must submit the consignments, accompanying documents, catch certificates where applicable and goods accounts to the control bodies for inspection on request.

3 They must be able to prove the lawful origin of the fishery products at the control bodies' request.

Section 5: Controls, measures and penalties

Art. 13 Control bodies

The FSVO and the Swiss Customs Administration (SCA) are the control bodies responsible for enforcement of this Ordinance.

Art. 14 Controls

1 The control bodies may check the accompanying documents and catch certificates relating to consignments, and carry out physical checks at the border inspection posts, customs offices, storage locations and the importer's place of business.

2 They conduct checks randomly or in suspected infringements of import conditions.

Art. 15 Contested consignments

The control bodies contest consignments not originating in flag states listed in Annex 2 if the consignments do not meet the import conditions. In particular, they contest consignments which:

- a. have not been properly pre-declared;
- b. lack the necessary documents or are accompanied by defective documents even after an extension has been granted;
- c. despite being accompanied by the necessary documents, raise a valid suspicion that the fishery products are not of lawful origin or the catch certificate is not genuine.

Art. 16 Measures

1 The SCA retains consignments at the customs office or border control post if they lack a release number or are suspected not to meet the import conditions. It informs the FSVO, which decides on further action.

2 The FSVO refuses the release of contested consignments.

Art. 17 Penalties

Infringements of Articles 4, 8, 11 and 12 are punishable under Article 26 paragraph 1 letter b FA-CITES.

Section 6: Fees and expenses

Art. 18

1 The charging of fees and invoicing of expenses is governed by the FSVO Fees Ordinance of 30 October 1985⁵.

2 The FSVO charges the responsible person a fee of CHF 60 per consignment for the inspection of pre-declared consignments.

Section 7: Data processing

Art. 19 Information exchange between control authorities

The FSVO and SCA exchange the information necessary for the performance of their tasks.

Art. 20 Data in the information system

1 The following data on consignments subject to the pre-declaration procedure are entered into the information system:

- a. data concerning the establishment of destination;
- b. name and address of the importer and the person declaring the consignment to customs for clearance;
- c. data concerning the consignment, namely quantities in kilograms, fish species and fishing zones by catch certificate, and catch certificate numbers;
- d. flag state which issued the catch certificates;
- e. scanned catch certificates;
- f. scanned accompanying documents;
- g. release number;
- h. results of controls;
- i. data concerning clarifications of facts and the opening of criminal proceedings; and
- j. data concerning the refusal of release for a consignment.

2 For all other consignments, the following data are entered into the information system:

- a. results of controls;
- b. data concerning clarifications of facts and the opening of criminal proceedings.

⁵ SR 916.472

Article 21 Entry of data

1 Data referred to in Article 20 paragraph 1 letters a to f are entered into the information system by the responsible persons.

2 Data referred to in Article 20 paragraph 1 letters a to c which have already been entered into the Traces veterinary information system in accordance with Decision 2004/292/EC⁶ are transferred into the information system automatically.

3 If responsible persons do not have access to the information system due to technical reasons, FSVO staff will enter the data referred to in Article 20 paragraph 1 letters a to f into the information system.

4 Data referred to in Article 20 paragraph 1 letters g to j and paragraph 2 are entered into the information system by FSVO staff.

Art. 22 Access rights

1 The FSVO staff entrusted with enforcement of this Ordinance have online access to data in the information system.

2 They are authorised to process the data.

3 Responsible persons may enter the data referred to in Article 20 paragraph 1 letters a to f into the information system in relation to their consignments.

Art. 23 Communication of data to foreign authorities

If doubts exist as to the lawful origin of a consignment, the scanned accompanying documents and, where applicable, catch certificates may, in order to clarify the facts and in compliance with Article 18 FA-CITES, be communicated to the following authorities of other states and international organisations:

- a. national fishery authorities;
- b. national customs authorities;
- c. authorities of the EU and of EU Member States which are entrusted with fisheries surveillance and implementation of measures to control illegal, undeclared or unregulated fishing;
- d. regional fishery organisations;
- e. international organisations for food and fisheries;
- f. national and international police authorities.

Article 24 IT security

Measures to guarantee IT security are governed by the Federal Information Technology Ordinance of 9 December 2011⁷.

⁶ Commission Decision 2004/292/EC of 30 March 2004 on the introduction of the Traces system and amending Decision 92/486/EEC, OJ L 94 of 31.3.2004, p. 63; last amended by Decision 2005/515/EC, OJ L 187 of 19.7.2005, p. 29.

⁷ SR 172.010.58

Article 25 Archiving and deletion of data

1 The archiving of data is governed by the provisions of the Archiving Act of 26 June 1998⁸.

2 Data will be erased within ten years.

Section 8: Updating of Annexes**Art. 26** Updating of Annexes 1 to 4 by the FDHA

1 The Federal Department of Home Affairs (FDHA) may update Annexes 1, 3 and 4 in accordance with international or technical developments.

2 The FDHA may update Annex 2 after consulting the Federal Department of Economic Affairs, Education and Research and the Federal Department of Foreign Affairs; the updating is governed by Article 27.

Art. 27 Inclusion and removal of flag states in Annex 2 by the FDHA

1 The FDHA may include flag states in Annex 2 at their request. The request must be drawn up and substantiated in a Swiss official language or in English.

2 The conditions for inclusion of a flag state in Annex 2 are as follows:

- a. the flag state:
 1. has legislation to prevent illegal, undeclared or unregulated fishing,
 2. has an authority responsible for monitoring compliance with statutory requirements,
 3. has the necessary enforcement instruments to implement statutory requirements,
 4. carries out the necessary number of controls to verify compliance with statutory requirements,
 5. is a member of the regional fishery organisations responsible for the fishing zones, and
 6. has ratified international agreements aimed at sustainable fishing; and
- b. there is no sound evidence that the state tolerates, encourages or promotes illegal, undeclared or unregulated fishing.

3 In its investigations, the FDHA takes account of information provided by the foreign authorities and international organisations referred to in Article 23, and the results of control procedures on imports of fishery products.

4 Flag states whose request for inclusion in Annex 2 is to be rejected or which are to be removed from Annex 2 will first be consulted by the FDHA.

Art. 28 Inclusion of flag states and fishery products in Annex 5

- 1 A prerequisite for inclusion of a flag state in Annex 5 is the existence of sound evidence that this state tolerates, encourages or promotes illegal, undeclared or unregulated fishing.
- 2 The investigations take particular account of information provided by the foreign authorities and international organisations referred to in Article 23, and the results of control procedures on imports of fishery products.
- 3 If the state concerned tolerates, encourages or promotes illegal, undeclared or unregulated fishing to a significant extent, all fishery products from that state are included in Annex 5; otherwise, only fishery products from species for which the lawfulness of catches is not guaranteed are included.
- 4 Flag states which are to be included in Annex 5 will first be consulted by the FDHA.

Section 9: Entry into force**Art. 29**

This Ordinance enters into force on 1 March 2017.

20 April 2016

On behalf of the Swiss Federal Council

The Federal President: Johann N. Schneider-
Ammann

The Federal Chancellor: Walter Thurnherr

Annex I
(Articles 4 para. 1 and 26 para. 1)

Fishery products subject to this Ordinance

Tariff heading	
0301	
	ex 9100
	ex 9200
	ex 9400
	ex 9500
	ex 9980
0302	
	ex 1100
	ex 1300
	ex 1400
	ex 1900
	ex 2100
	ex 2200
	ex 2300
	ex 2400
	ex 2900
	ex 3100
	ex 3200
	ex 3300
	ex 3400
	ex 3500
	ex 3600
	ex 3900
	ex 4100
	ex 4200
	ex 4300
	ex 4400
	ex 4500

Tariff heading	
	ex 4600
	ex 4700
	ex 4900
	ex 5100
	ex 5200
	ex 5300
	ex 5400
	ex 5500
	ex 5600
	ex 5900
	ex 7400
	ex 7900
	ex 8100
	ex 8200
	ex 8300
	ex 8400
	ex 8500
	ex 8980
	ex 9200
	ex 9900
0303	
	ex 1100
	ex 1200
	ex 1300
	ex 1400
	ex 1900
	ex 2600
	ex 2900

Tariff heading	
	ex 3100
	ex 3200
	ex 3300
	ex 3400
	ex 3900
	ex 4100
	ex 4200
	ex 4300
	ex 4400
	ex 4500
	ex 4600
	ex 4900
	ex 5100
	ex 5300
	ex 5400
	ex 5500
	ex 5600
	ex 5700
	ex 5900
	ex 6300
	ex 6400
	ex 6500
	ex 6600
	ex 6700
	ex 6800
	ex 6900
	ex 8100
	ex 8200
	ex 8300
	ex 8400
	ex 8980

Tariff heading	
	ex 9200
	ex 9900
0304	
	ex 3900
	ex 4100
	ex 4200
	ex 4300
	ex 4400
	ex 4500
	ex 4600
	ex 4700
	ex 4800
	ex 4980
	ex 5210
	ex 5290
	ex 5300
	ex 5400
	ex 5500
	ex 5600
	ex 5700
	ex 5980
	ex 6900
	ex 7100
	ex 7200
	ex 7300
	ex 7400
	ex 7500
	ex 7900
	ex 8100
	ex 8200
	ex 8300

Tariff heading	
	ex 8400
	ex 8500
	ex 8600
	ex 8700
	ex 8800
	ex 8980
	ex 9100
	ex 9200
	ex 9300
	ex 9400
	ex 9500
	ex 9600
	ex 9700
	ex 9910
	ex 9970
0305	
	ex 3200
	ex 3990
	ex 4100
	ex 4200
	ex 4300
	ex 4990
	ex 5100
	ex 5300
	ex 5400
	ex 5980
	ex 6100
	ex 6200
	ex 6300
	ex 6990
	ex 7100

Tariff heading	
	ex 7900
0306	
	ex 1100
	ex 1200
	ex 1400
	ex 1500
	ex 1600
	ex 1700
	ex 3100
	ex 3200
	ex 3300
	ex 3400
	ex 3500
	ex 3600
	ex 9100
	ex 9200
	ex 9300
	ex 9400
	ex 9500
0307	
	ex 4200 only <i>Illex</i> species and <i>Sepia pharaonis</i>
	ex 4300 only <i>Illex</i> species and <i>Sepia pharaonis</i>
	ex 4900 only <i>Illex</i> species and <i>Sepia pharaonis</i>
	ex 5100
	ex 5200
	ex 5900
	ex 7100
	ex 7200

Tariff heading	
	ex 7900
	ex 8200
	ex 8400
	ex 8800

Tariff heading	
1604	
	ex 1100
	ex 1210
	ex 1290
	ex 1310
	ex 1320
	ex 1390
	ex 1410
	ex 1490
	ex 1510
	ex 1590
	ex 1610
	ex 1690

Tariff heading	
	ex 1700
	ex 1800
	ex 1910
	ex 1991
	ex 1999
	ex 2010
	ex 2090

Tariff heading	
1605	
	ex 1000
	ex 2100
	ex 2900
	ex 3000
	ex 5200
	ex 5400
	ex 5500
	ex 5600

Annex 2
(Articles 4 para. 2, 9 para. 1, 15, 26 para. 2 and 27)

Flag states from which fishery products may be imported without a catch certificate and without a pre-declaration procedure

Flag state:	ISO code
Australia	AU
Austria	AT
Belgium	BE
Bulgaria	BG
Canada	CA
Croatia	HR
Cyprus	CY
Czech Republic	CZ
Denmark	DK
Estonia	EE
Finland	FI
France	FR
Greece	GR
Germany	DE
Hungary	HU
Iceland	IS
Ireland	IE
Italy	IT
Japan	JP
Latvia	LV
Lithuania	LT
Luxembourg	LU
Malta	MT
New Zealand	NZ
Norway	NO
Poland	PL

Flag state:	ISO code
Portugal	PT
Romania	RO
Slovakia	SK
Slovenia	SI
Spain	ES
Sweden	SE
The Netherlands	NL
United Kingdom	GB
United States	US

Annex 3
(Articles 6 para. 3 and 26 para. 1)

Catch certificate (model)

Document no				Validating authority			
1.	Name		Address		Telephone		Fax
2.	Name of fishing vessel		Flag – home port and registration number		Call sign		IMO/Lloyds number (where assigned)
Fishing licence number, valid until		Inmarsat number		Fax, telephone		E-mail address (if any)	
3.	Description of product		Permitted processing on board		4. Applicable preservation and management measures		
Species		CN code of products	Catch zones and dates		Estimated live weight (kg)	Estimated landed weight (kg)	Where applicable, verified landed weight (kg)
5.	Name of captain of fishing vessel			Signature		Stamp	
6.	Declaration of transhipment at sea			Signature and date		Transhipment date/zone/position	Estimated weight (kg)
Captain of recipient vessel		Signature		Vessel name	Call sign	IMO/Lloyds number (where assigned)	
7.	Authorisation for transhipment in port area						
Designation	Authority	Signature	Address	Telephone	Port of landing	Date of landing	Seal or stamp
8.	Name and address of exporter			Signature		Date	Seal

9.	Confirmation by authority of the flag state				
Name / title	Signature	Date	Seal or stamp		
10.	Information regarding transport, <i>see Annex</i>				
11.	Declaration by importer				
Name and address of importer	Signature	Date	Seal	CN code of products	
Documents referred to in Art. 14 para. 1 and 2 of Regulation (EC) No 1005/2008	References				
12.	Import control: Authority	Location	Import authorised (*)	Import suspended (*)	Verification requested
Import declaration (where issued)	Number	Date	Location		

(*) Tick as applicable

Annex 4
(Articles 7 para. 2 and 26 para. 1)

Processing declaration (model)

I hereby confirm that the processed fishery products: ...
(description of products and Combined Nomenclature code number) come from catches which were made under the following catch certificates:

No of catch certificate	Name of fishing vessel and flag	Date of validation	Description of catch	Landed weight (kg)	Processed catch (kg)	Processed fishery product (kg)

Name and address of processing plant:

Name and address of exporter (if different from those of the processing plant):

Authorisation number of processing plant:

--

Number and date of issue of health certificate:

--

Responsible person at processing plant	Signature	Date	Location

Confirmation by competent authority:

Responsible person	Signature and seal	Date	Location

Annex 5
(Articles 8 and 28)

Flag states subject to an import prohibition, and fishery products affected

Flag state	ISO code	Fish species affected by import prohibition	Tariff headings affected by import prohibition	Processing status	Comments

This page is left blank to ensure that page numbers correspond in all official languages of the Official Collection.

