

Pursuant to the Government's Decree No. 01/2008/ND-CP of January 3, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Agriculture and Rural Development, and Decree No. 75/2009/ND-CP amending Article 3 of Decree No. 01/2008/ND-CP;

Pursuant to the Government's Decree No. 59/2005/ND-CP of May 4, 2005, on the conditions applicable to a number of fisheries production and business lines, and Decree No. 14/2009/ND-CP of February 13, 2009, amending and supplementing a number of articles of Decree No. 59/2005/ND-CP;

Pursuant to the Government's Decree No. 33/2010/ND-CP of March 31, 2010, on the management of fishing activities in sea areas by Vietnamese organizations and individuals;

In order to meet requirements of the state management of fisheries resource exploitation and protection and in furtherance of the Council of the European Union regulations to prevent, deter and eliminate illegal, unreported and unregulated fishing, the Ministry of Agriculture and Rural Development provides the validation of catch certificates and statements for exportation into the European market as follows:

**THE MINISTRY OF AGRICULTURE AND
RURAL DEVELOPMENT**

**Circular No. 28/2011/TT-BNNPTNT
of April 15, 2011, providing the
validation of catch certificates and
statements for exportation into the
European market**

*Pursuant to the November 26, 2003 Fisheries
Law;*

Chapter I
GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular specifies the validation order and procedures and contents of catch statements for raw materials, catch certificates and statements of fishery products processed from imported catches for exportation into the European market.

Article 2. Subjects of application

1. This Circular applies to organizations and individuals engaged in fishing activities or activities of purchasing, processing and exporting catches or importing catches for processing and exportation into the European market.

2. This Circular does not apply to fisheries and fishery products included in the list provided in Annex 1 to this Circular.

Article 3. Interpretation of terms

In this Circular, the terms below are construed as follows:

1. Catch statement for raw materials means the attestation given by a competent authority to fishery raw materials which do not violate regulations on illegal, unreported and unregulated fishing.

2. Catch certificate means the attestation given by a competent authority to an export consignment which is processed from fishery raw materials not in contravention of regulations on illegal, unreported and unregulated fishing.

3. Statement of export fishery products processed from imported catches means the attestation given by a competent authority to a consignment which is processed from imported catches not in contravention of regulations on illegal, unreported and unregulated fishing.

4. Fishing area means the sea area in which a fishing vessel conducts fishing activities during a voyage.

5. Fishing period means a period of time counting from the date of laying the fishing net till the date of drawing up the fishing net.

6. Certified consignment mean a consignment which is certified by a competent authority for exportation into the EU.

7. Transshipment within port areas means activities of transshipping goods from one vessel to another within port areas.

8. Goods owner means the owner of a consignment of fishery products exported into Europe.

Article 4. Illegal, unreported and unregulated fishing

Fishing activities are considered illegal, unreported and unregulated if organizations and individuals engaged in fishing activities commit any of the following violations:

1. Conducting fishing activities without a valid fishing license or permission issued by a competent authority.

2. Failing to record and report catch data according to regulations.

3. Conducting fishing activities in a no-fishing area or during a no-fishing period, being engaged in fishing for a stock for which fishing is prohibited or catching undersized fish excessively.

4. Using prohibited or non-compliant fishing gear or methods.

5. Concealing, tampering with or disposing of evidence of violation of regulations on fisheries resource exploitation and protection.

6. Obstructing the work of officials in the exercise of their duties in inspecting and supervising the observance of regulations on fisheries resource exploitation and protection.

7. Taking on board, transshipping or transporting undersized fish in excess of the permitted ratio.

8. Transshipping or joining fishing operations with, supporting or re-supplying other fishing vessels identified as having engaged in illegal, unreported and unregulated fishing.

9. Fishing in the area under the management of a regional fisheries management organization but failing to comply with regulations of that

organization, in case Vietnam is a contracting party to that organization.

Article 5. Agencies competent to validate catch certificates or statements

1. The Sub-Departments of Capture Fisheries and Resources Protection or local units assigned to perform the specialized management of fisheries resource exploitation and protection shall validate catch certificates and catch statements for raw materials and inspect illegal, unreported and unregulated fishing activities of fishing vessels.

2. Regional Agro-Forestry-Fisheries Quality Assurance Departments under the National Agro-Forestry-Fisheries Quality Assurance Department shall inspect and validate statements of export fishery product processed from imported catches.

Chapter II

ORDER AND PROCEDURES FOR VALIDATION OF CATCH CERTIFICATES AND STATEMENTS

Article 6. Validation of catch statements for raw materials

1. Goods owners shall fill in the catch statement for raw materials (made according to the form provided in Annex No. 3 to this Circular) and submit it to the competent authority specified in Clause 1, Article 5 of this Circular of the locality in which they have purchased catches for validation. Catch statements may be submitted directly or by post to competent authorities.

2. Within 2 working days after receiving a request for validation of a catch statement for raw materials, the competent authority shall check the accuracy of information declared in the catch statement and effect the validation for

the goods owner.

In case of refusal, it shall issue a written reply clearly stating the reason.

3. The validated catch statements may be handed directly to goods owners at the offices of competent authorities or sent to them by post (if they so wish).

4. A catch statement for raw materials shall be made in 2 originals, one to be handed to the goods owner and the other to be kept at the validating authority.

Article 7. Catch certificates

1. Goods owners shall complete and file a dossier set to any of competent authorities of the locality in which they has purchased raw materials to request for validation of catch certificates. This dossier, which may be submitted directly or by post, comprises:

a/ A catch certificate (made according to the form provided in Annex 2 to this Circular with Items 2 thru 8 fully filled in);

b/ Transport details (made according to the form provided in Appendix 2b to this Circular and fully filled in);

c/ Additional information for fishery products processed from raw materials stemming from Vietnamese fishing vessels, applicable to cases in which fishery products constituting a single consignment are processed from raw materials purchased from more than one (1) fishing vessel or cases in which products processed from raw materials purchased from one (1) fishing vessel constitute more than one consignment (made according to the form provided in Appendix 2a to this Circular);

d/ The validated catch statement for raw materials related to the export consignment.

2. Within 2 working days after receiving a

dossier of request for validation of a catch certificate, the competent authority shall check the accuracy of information declared in the dossier and effect the validation for the goods owner.

In case of refusal, it shall issue a written reply clearly stating the reason.

3. Validated catch certificates may be handed directly to goods owners at the offices of competent authorities or sent to them by post (if they so wish).

4. Each export consignment shall be granted one catch certificate which shall be made in 2 originals, one to be handed to the goods owner and the other to be kept at the validating authority.

Article 8. Statements of export fishery products processed from imported catches

1. Each consignment of catches which is imported for processing products for exportation into the European market must be accompanied with a catch certificate validated by a competent authority of the flag state of the fishing vessel.

2. The owner of a consignment of fishery products processed from imported catches shall send 1 set of the registration dossier to a competent agency specified at Clause 2, Article 5 of this Circular. A dossier comprises:

a/ The catch certificate (original or copy);

b/ A paper of registration for inspection of food quality, hygiene and safety of fishery product consignments, made according to the form provided in the Minister of Agriculture and Rural Development's Decision No. 118/2008/QĐ-BNN of December 11, 2008, or a paper of registration for food quarantine and quality, hygiene and safety inspection, made according to the form provided in Circular No. 47/2010/TT-BNNPTNT of August 3, 2010;

c/ A detailed list of the consignment, made according to the form provided in Appendix 1 to Circular No. 47/2010/TT-BNNPTNT of August 3, 2010;

d/ The statement of export fishery products processed from imported catches (made according to the form provided in Annex No. 5 to this Circular);

If the consignment inspection registration dossier is valid, the inspection agency shall make certification in the registration dossier and reach agreement with the goods owner on the time of on-site inspection. If the dossier is invalid, the competent agency shall guide the goods owner in completing the dossier according to regulations.

3. Mode of inspection

On-site inspection, applicable to all consignments before exportation.

4. Inspection contents

Inspection of the compliance and accuracy of information provided by the goods owner against the production dossier of the export consignment and catch certificates of consignments of raw materials used for processing the export consignment.

5. Validation and notification of inspection results

a/ Within 2 working days after the on-site inspection completes, the competent agency shall validate the statement made by the goods owner for the consignment registered for inspection according to the form provided in Annex 5 to this Circular;

b/ If the inspection results show that the consignment fails to satisfy prescribed requirements, the competent agency will not validate the statement and issue a written reply to the goods owner, clearly stating the reason.

Chapter III

INSPECTION OF FISHING VESSELS'
ILLEGAL, UNREPORTED AND
UNREGULATED FISHING

Article 9. Inspection of fishing vessels' illegal, unreported and unregulated fishing

1. Inspected subjects

Fishing vessels engaged in fishing and transportation of catches to be used as raw materials for processing exports into the European market.

2. Inspection agencies

The Department of Capture Fisheries and Resources Protection and competent authorities specified in Clause 1, Article 5 of this Circular shall plan and carry out the inspection.

3. Inspection principles

Inspection shall adhere to the principle of risk assessment to assure that inspection shall be carried out upon at least 5% of the total average entries of fishing vessels into fishing ports or wharves.

4. Establishment of an inspection team

The head of a competent agency shall issue a decision to establish an inspection team, which clearly states the scope, contents and site of inspection; names and titles of the head and members of the team; and responsibilities of the vessel owner and the inspection team. The decision on the establishment of the inspection team must be announced on board the fishing vessel upon inspection.

5. Inspection contents

Inspecting fishing licenses and issues specified in Article 4 of this Circular and stated in the competent agency's decision on the establishment of the inspection team.

After the inspection finishes, the inspection team shall make an inspection record and notify the inspection results and violations (if any). The inspection team's representative and the vessel master or his/her representative shall sign the inspection record which shall be made in 2 originals according to the form provided in Annex 9 to this Circular; one of these originals shall be handed to the vessel owner and the other kept at the competent agency.

6. Handling of inspection results

If detecting violations of this Circular, depending on the severity of violations, the inspection agency shall apply one of the following handling measures:

+ Refusing to validate catch certificates for the violating fishing vessel within 60 days from the date of inspection and include this vessel into the list of fishing vessels engaged in illegal, unreported and unregulated fishing, which shall be posted on the website of the Directorate of Fisheries and the Department of Capture Fisheries and Resources Protection (<http://cucktbvnltts.gov.vn>);

+ Transferring the dossier to functional agencies for continued handling according to law;

+ Past the time limit of 60 days, if the agency directly managing the fishing vessel attests that violations have been remedied, the Department of Capture Fisheries and Resources Protection shall exclude such vessel from the list of fishing vessels engaged in illegal, unreported and unregulated fishing.

Chapter IV

RESPONSIBILITIES AND POWERS OF
ORGANIZATIONS AND INDIVIDUALS

Article 10. Responsibilities and rights of fishing vessel masters and owners

1. Fishing vessel masters and owners shall:
 - a/ Supply goods owners with accurate information for filling in the catch statement for raw materials (made according to the form provided in Annex 3 to this Circular), sign and take responsibility for their declarations;
 - b/ Create favorable conditions for inspection teams to perform their tasks.
2. Vessel masters and owners or their representatives may request competent agencies to provide relevant regulations on the validation of catch statements for raw materials and catch certificates.

Article 11. Responsibilities and rights of goods owners

1. Goods owners shall:
 - a/ Fill in catch certificates (according to the form provided in Annex 2 to this Circular) and catch statements for raw materials (according to the forms provided in Annex 3, Appendix 2a or Appendix 2b to this Circular) before sending them to competent agencies for validation and take responsibility for their declarations;
 - b/ Supply information on the implementation of this Circular when so requested by competent authorities;
 - c/ Keep validation dossiers for 3 years from the date of validation.
2. Goods owners may:
 - a/ Request competent authorities to issue regulations on validation of catch statements and certificates;
 - b/ Request any of competent authorities of the localities in which they have purchased raw materials to validate catch certificates.

Article 12. Responsibilities and powers of competent authorities specified in Clause 1, Article 5 of this Circular

1. Responsibilities
 - a/ To receive and settle dossiers of request for validation of catch statements for raw materials and catch certificates under Articles 6 and 7 of this Circular when so requested by goods owners;
 - b/ To guide goods owners, vessel masters and owners or their representatives in performing jobs concerning the validation of catch statements for raw materials and catch certificates.
 - c/ To comply with the reporting regime prescribed in Article 16 of this Circular;
 - d/ To report to the Directorate of Fisheries on detected violations and transfer dossiers to functional agencies for handling according to regulations;
 - e/ To keep dossiers of validation of catch certificates and catch statements of raw materials for 3 years from the date of validation.
2. Powers
 - a/ To request vessel masters and owners or their representatives and goods owners to supply relevant information to serve the validation of certificates and statements.
 - b/ To refuse validating certificates and statements if vessel masters and owners or goods owners violate this Circular.

Article 13. Responsibilities and powers of competent authorities specified in Clause 2, Article 5 of this Circular

1. Responsibilities
 - a/ To validate statements of export fishery products processed from imported catches under Article 8 of this Circular;
 - b/ To guide importers to make statement of export fishery products processed from imported catches;

c/ To send reports to the Agro-Forestry-Fisheries Quality Assurance Department according to regulations;

d/ To keep dossiers of validation of statements of export fishery products processed from imported catches within 3 years from the date of validation.

2. Powers

a/ To request importers to supply relevant information to serve the validation;

b/ To refuse making validation if importers violate this Circular.

Article 14. Responsibilities of fishing port authorities

a/ To certify information on transshipment within port areas (if any) declared in catch certificates;

b/ To supply information related to fishing vessels registering for landing and transshipment operations within port areas.

Chapter V

ORGANIZATION OF IMPLEMENTATION

Article 15. Responsibilities of management agencies

1. Tasks of the Directorate of Fisheries

To direct the Department of Capture Fisheries and Resources Protection:

a/ To carry out professional operations in an uniform manner; to periodically inspect and supervise activities related to the inspection and validation of catch statements for raw materials and catch certificates;

b/ To organize professional training for officials engaged in the inspection and validation of catch statements for raw materials and catch certificates;

c/ To propagate and provide guidelines on

procedures and methods of management, inspection and validation of catch statements for raw materials and catch certificates for uniform application nationwide; to conduct propaganda among fishermen and concerned organizations and individuals so as to raise their awareness about illegal, unreported and unregulated fishing and the implementation of this Circular;

d/ To send biannual reports on the implementation of this Circular to the Ministry of Agriculture and Rural Development;

e/ To post the list of fishing vessels violating illegal, unreported and unregulated fishing regulations on the websites of the Directorate of Fisheries, the Department of Capture Fisheries and Resources Protection, relevant agencies and the European Commission's Directorate General for Maritime Affairs and Fisheries.

f/ To assume the prime responsibility for, and coordinate with concerned Vietnamese agencies in, exchanging ideas and negotiating with European competent authorities in the cooperation, exchange of information and settlement of problems related to the implementation of the European Commission's regulation to prevent, deter and eliminate illegal, unreported and unregulated fishing.

2. Tasks of the National Agro-Forestry-Fisheries Quality Assurance Department

a/ To direct and carry out professional operations in a uniform manner; to periodically inspect and supervise activities related to the inspection and validation of statements of export fishery products processed from imported catches.

b/ To uniformly manage professional operations; to provide training to officials engaged in the inspection and validation of statements of export fishery products processed

from imported catches;

c/ To make biannual reports on the inspection and validation of statements of export fishery products processed from imported catches to the Ministry of Agricultural and Rural Development.

3. Tasks of Agriculture and Rural Development Departments of coastal provinces and cities

a/ To direct, guide and inspect the implementation of this Circular by competent authorities specified in Clause 1, Article 5 of this Circular;

b/ To guide, disseminate and inspect the observance of the Ministry of Agriculture and Rural Development's regulations and the Directorate Fisheries' professional guidelines;

c/ To direct attached agencies to coordinate with local functional agencies in guiding, propagating and disseminating relevant regulations of this Circular;

d/ To advise provincial-level People's Committees in allocating funds, arranging staff and preparing other relevant conditions to assure operations of competent authorities regarding the validation of catch certificates.

Article 16. Reporting

1. Competent authorities specified in Clause 1, Article 5 of this Circular shall submit detailed reports on the validation of catch certificates monthly, quarterly and annually or upon request to the Department of Capture Fisheries and Resources Protection.

2. Competent authorities specified Clause 2, Article 5 of this Circular shall submit detailed reports on the validation of statements of export fishery products processed from imported catches monthly, quarterly and annually or upon request to the National Agro-Forestry-Fisheries

Quality Assurance Department.

3. To-be-reported contents: The list of goods owners whose catch certificates have been validated, list of fishing vessels violating illegal, unreported and unregulated fishing regulations; the total number of validated catch certificates and the total volume of catches for which catch certificates have been validated (made according to the form provided in Annex 10 to this Circular).

4. The time for submitting reports: Within 5 days after the last day of a month, 10 days after the last day of a quarter and 15 days after the last day of a year.

Article 17. Organization of implementation

1. The Directorate of Fisheries, departments, the Inspectorate and centers of the Ministry of Agriculture and Rural Development; and provincial-level Agriculture and Rural Development Departments shall, within the ambit of their functions, tasks and powers, urge and inspect the implementation of this Circular.

2. Funds for validation of catch statements for raw materials, statements of export fishery products processed from imported catches and catch certificates shall be estimated as non-business expenses and included in annual operation funds of concerned units.

2. Agencies and units shall promptly report any problems and difficulties arising in the process of implementation of this Circular and propose their recommendations to the Ministry of Agriculture and Rural Development (via the Directorate of Fisheries or the National of Agro-Forestry-Fisheries Quality Assurance Department, depending on types of issues) for summarization and reporting to the Minister for consideration and revision.

Article 18. Effect

1. This Circular takes effect on the date of its signing and replaces the Ministry of Agriculture and Rural Development's Circular No. 09/2011/TT-BNNPTNT of March 2, 2011.-

*For the Minister of
Agriculture and Rural Development*
Deputy Minister
VU VAN TAM

Notes: All the annexes and appendices mentioned above are not printed herein.