



THE FISH LABELLING (ENGLAND) REGULATIONS 2002:

GUIDANCE NOTES

Introduction

Important Note

- 1. These notes have been produced with the aim of providing informal, non-statutory guidance on the new labelling requirements for certain fish and fish products. They also provide advice on best practice and should be read in conjunction with the relevant legislation and other Guidance Notes where appropriate (see preface).**
- 2. The examples contained in these Guidance Notes are provided for illustration only. The reader is advised to seek further advice from their home Food Authority on any specific queries.**
- 3. The aim of this Guidance is to facilitate uniform application and enforcement of legislation relating to fish labelling with specific reference to those provisions which ensure that consumers are presented with meaningful and accurately labelled products.**

Interpretation of the legislation

- 4. These Guidance Notes including advice on best practice, and the examples should not be taken as an authoritative statement or interpretation of the law, as only the Courts have this power. Ultimately, only the Courts can decide whether, in particular circumstances, an offence has been committed.**
- 5. The Fish Labelling (England) Regulations 2002 apply in England. Separate but similar law applies in Scotland, Wales, and Northern Ireland.**
- 6. Food labelling issues are the responsibility of the devolved administrations for Scotland, Wales and Northern Ireland who have been consulted about this Guidance.**

Preface

7. These Guidance Notes relate principally to the rules set down in European Council Regulation 104/2000⁽¹⁾ on the common organisation of the markets in fishery and aquaculture products and Commission Regulation 2065/2001⁽²⁾ laying down detailed rules for application of Council Regulation 104/2000 as regards consumer information. These Regulations are directly applicable in the UK and enforcement provisions are included in national legislation.

8. This Guidance should be read in conjunction with:

- the Food Labelling Regulations 1996 (as amended), in particular Regulations 5(a), 5(f), 6, 7, 8, 14(1), 23, 27, 35-36, and 38-39;
- articles 2 and 3 of the Food Labelling Directive 2000/13/EC;
- sections 14 and 15 of the Food Safety Act 1990; and,
- the Trade Descriptions Act 1968.

9. Further detail on some of the aforementioned legislation may be found in the following Guidance Notes. The reader is recommended strongly to refer to these documents for additional advice. Copies of these Guidance Notes may be obtained from Food Labelling and Standards Division, Branch 'A' (020 7276 8147) or may be downloaded from the Agency's website (www.food.gov.uk).

- The Food Labelling Regulations 1996 – Guidance Notes
- The Food Labelling Regulations 1996 - Guidance Notes on Place of Origin
- Food Labelling Advice on Country of Origin Labelling (currently subject to consultation)
- The Food Labelling Regulations 1996 - Guidance Notes on Quantitative Ingredient Declarations (QUID)

¹ OJ No. L17, 21.1.2000, p.16

² OJ No. L278, 23.10.2001, p.6

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Introduction / Overview of new requirements	Article 4(1) of Regulation 104/2000 Whereas of Regulation 2065/2001
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I. Council Regulation 104/2000, which covers the organisation of the fisheries marketing regime, was agreed in December 1999. Article 4 of this Regulation relates to consumer information and labelling provisions. It requires all fishery and aquaculture products included within Chapter 3 of the Customs Code Combined Nomenclature (CN Codes) which are marketed within the Community, irrespective of their origin, to be appropriately marked or labelled at the point of retail sale to the final consumer with the following information:

- (a) the commercial designation of the species;
- (b) the production method (caught at sea or inland waters or farmed);
- and,
- (c) the catch area.

Chapter 3 of the CN Codes - covers fish from all species but only marketed in certain presentations, as described by Chapter 3, i.e. whether live, fresh, chilled, or frozen; fish fillets and other fish meat, fresh, chilled or frozen; smoked, dried, salted, or brined fish; crustaceans and molluscs.

Fishery products - for the purposes of Council Regulation 104/2000, this covers both products caught at sea or in inland waters.

Aquaculture is defined in Council Regulation 2792/1999 (referred to at Article 4(3) of Regulation 2065/2001) as, simply, the farming of aquatic organisms, including fish, molluscs, crustaceans and aquatic plants.

II. Commission Regulation 2065/2001 (Annex VI) provides the detailed rules applying the provisions of Council Regulation 104/2000 (Annex V) and was agreed in October 2001. It lays down detailed rules for consumer information about certain fishery and aquaculture products through improved marking or labelling at retail level. Certain information is also required for traceability purposes.

Scope	Article 4(1) of Regulation 104/2000 Article 1 of Regulation 2065/2001
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Q.1 What is the scope of the new Regulations?

A.1 Information on the commercial designation, production method and catch area is required for the categories of fish covered by Article 1(a), (b) and (c) of Council Regulation (EC) No. 104/2000, reproduced at Annex I(a) of this Guidance. The new Regulations deal with consumer information applying to retail sale to the final consumer.

Specifically, this information is required for the following broad categories of fish whether sold loose from fish counters or pre-packed at retail sale to the final consumer:

- live fish;
- fresh, chilled and frozen fish;
- fish fillets and other fish meat (whether minced or not);
- dried, salted or brined fish;
- smoked fish (whether hot or cold smoked fish);
- crustaceans (except crustaceans which are both cooked and peeled – see Q.5); and,
- molluscs (except cooked molluscs).

Note: the reader is strongly advised to refer to both Regulation 104/2000 and Annex I(a) of this Guidance for the full list of products covered under the above categories, i.e. those products marketed in certain presentations, as covered by Chapter 3 of the CN Codes.

Q.2 What does offered for “retail sale to the final consumer” mean and what businesses are covered/excluded from the new requirements?

A.2 A “final consumer” can be considered to have the same meaning as “ultimate consumer” as defined by the Food Labelling Regulations 1996 (FLR). That is any person who does not buy: (i) for the purpose of re-sale; (ii) for the purpose of a catering establishment; and, (iii) for the purposes of a manufacturing business.

In the context of these new Regulations, “retail sale to the final consumer” can be considered to have its everyday meaning. That is, product sold direct to the consumer from a retail outlet such as supermarkets, grocers, fishmongers, or market stalls. Sales via e-commerce (i.e. the internet) are also covered.

With respect to catering establishments, our current understanding is that it was **not** intended that fish and fish products sold by caterers or catering outlets should be caught by the new labelling requirements. Thus, Chapter 3 products are not subject to these new requirements if they are consumed on the same premises as they were purchased. Therefore, the new labelling requirements **do not** generally apply to fish and fish products sold by caterers or catering establishments such as in restaurants, canteens, etc. Also, sales to caterers are not covered by the new labelling rules if the caterer is not the final consumer.

However, there may be some exceptions to this general rule and the new labelling information would be required in those circumstances where Chapter 3 products are offered for retail sale to the final consumer and not consumed on the premises. Therefore, a food stall at a show/conference etc., which is selling Chapter 3 fish products both to eat at the stall or for home consumption, would still need to give the information on those products not eaten at the stall as this would constitute a retail sale (e.g. for home consumption – see Q.33 on restaurants later).

Regardless of whether a business is caught or not by the new labelling requirements, traceability information must be passed throughout the marketing chain, i.e. from producer to processor, wholesaler, caterer, etc., up to the point of retail sale either by labelling or packaging of the product or on the commercial documents accompanying the food (see Qs.34-36).

Q.3 What type of products are covered by the new labelling requirements?

A.3 For the full list of products covered by the new labelling requirements, the reader should consult Annex I(a) of the Guidance where the fishery and aquaculture categories according to Chapter 3 of the Customs Tariff are reproduced. Annex I(b) lists some of the fish products that would fall within as well as those outside the scope of the new labelling requirements. In summary, Chapter 3 products covered include uncooked (raw) fish to which no other ingredients (including additives, colourings, flavourings) except salt have been added.

Therefore, new labelling information will be needed for all raw wet fish, headed, de-tailed and gutted fish, fish fillets, fish steaks. Smoked fish, for example smoked mackerel, smoked salmon and kippers also fall within the scope of the new Regulations. Additionally, dried fish, salted fish such as salted cod and fish in brine (e.g. anchovies) will also be subject to the new labelling requirements. Surimi is a processed fish protein ingredient and is also caught as a Chapter 3 product but see also Q.6.

In addition, shellfish such as crustaceans (e.g. prawns, crabs, lobsters), and molluscs (e.g. mussels, scallops, oysters) will also be subject to the new labelling provisions when offered for retail sale in the presentations covered by Chapter 3. These products can be with or without shell, live, fresh, chilled, frozen, dried, salted or in brine. Further in the case of in-shell crustaceans only, cooked by steaming or by boiling in water, (whether or not they be chilled, frozen, dried, salted or in brine) would also fall within the scope of the new Regulations (see also Q.5 below).

Q.4 Will fish that has been sliced/cut, flaked, etc. be subject to the new labelling requirements?

A.4 Yes. Uncooked fish to which no other ingredients have been added and which has been subject simply to physical processes such as slicing, cutting, flaking, etc. all fall within the scope of the Regulations and will need to give the new labelling information. Examples include: frozen fish or shellfish blocks not treated in any way; fish steaks (e.g. tuna steak, salmon steak); fish steaks from re-formed fish; minced fish meat; slices of fish (e.g. smoked salmon slices); fish that has been flaked, cubed/diced (e.g. salmon flakes sold as such to the final consumer to add to recipe dishes, sandwiches, etc.).

Q.5 Are there any circumstances where products would be covered but where it is not immediately obvious that they are?

A.5 Kippers are a product common to the UK and they are often sold vacuum-packed with just a pat of butter placed on top. If the butter is still separate from the kipper fillet, and hence not an intrinsic ingredient of the fish

then the product can be considered as a Chapter 3 product. Similarly, fish with sauce packaged in a separate sachet remains a Chapter 3 product and also falls within the scope of the new Regulations. However, peppered smoked fish would fall outside of Chapter 3 (See Q.6).

Additionally, prawns which are cooked but not peeled or if peeled and not cooked are considered to be covered in Chapter 3 and, as such, would be subject to the new labelling requirements. However, if the prawns are both cooked and peeled, they fall within Chapter 16 of the Customs Nomenclature Codes and would, therefore, be outside the scope of the new Regulations.

If there are any doubts as to whether a fish product falls within Chapter 3 or 16, the reader is advised, in the first instance, to contact Customs and Excise for advice and a ruling as they administer the rules on classification of CN Codes (see contact details).

Q.6 What products fall outside the scope of the new Regulations?

A.6 The new labelling information is not required for fish that has been further processed, preserved, treated or cooked. For example, bottled or canned fish products such as canned tuna, tinned sardines and canned/pickled cockles. Fish products such as poached salmon fillets/slices also fall outside the scope of the new provisions.

In addition, fish to which other ingredients have been added such that the fish becomes an intrinsic part of the end-product are composite products and fall outside the scope of the Regulations. These include: coated/battered/breaded fish products such as fish fingers, coated scampi; surimi-based preparations and/or products such as crabsticks, fishsticks and similar; recipe dishes/fish ready meals, for example: fish pies, fish-in-sauce products, salad nicoise, prawn cocktail.

Other products not subject to the new labelling requirements are: smoked fish with additional ingredients other than from the smoking process and salts (e.g. smoked salmon fillet treated with honey and sugar); sandwiches such as prawn sandwiches, salmon sandwiches etc.; rollmops as they usually contain vinegar/herbs and onions in addition to the usual brine and salt.

Cooked molluscs (e.g. cockle meat out of shell or winkle meat with or without shell) do not come under Chapter 3 products and are also exempt from the new requirements.

However, in-shell crustaceans whether they be cooked by steaming, or boiling in water, chilled, frozen, dried, salted or brined would require the new labelling information but crustaceans which are both cooked and peeled are exempt from the new requirements (see Q.5 above).

Q.7 Is the new labelling information required if it was known that the end-product would be sold as a non-Chapter 3 product?

A.7 The new labelling requirements may not apply in cases where it was definitely known that the Chapter 3 product(s) would be undergoing a change

of Customs Code before being offered for retail sale. However, if there was any doubt about the presentation of the end-product (e.g. if the product was diverted from its original intended use and sold, instead, as Chapter 3 product(s)), then the labelling information would need to be provided.

Q.8 How do the new labelling rules apply to products containing fish?

A.8 The new labelling rules in Regulation 2065/2001 do not apply to compound products containing fish, which will need to follow rules laid down by the Food Labelling Regulations 1996 (FLR).

Where there is a name laid down by law for a food, this must be used. If there is no name laid down by law, a customary name may be used. If there is no customary name, or it is not used, a descriptive name must be used (see Regulation 6 of FLR).

The names used for the ingredients of a product containing fish should be the same names as could be used if those ingredients were being sold as foods by themselves. For example, if the ingredient list of an "ocean pie" mentions "cod" and "haddock", those names must be capable of being used for the fish ingredients they describe, were those fish sold individually as food (see Regulation 14(1), 14(4), and Schedule 3 of the FLR).

The generic name, "fish", can be used in the ingredients list instead of a more specific name to describe any species of fish, but only if the label does not refer to a specific species of fish (see Regulation 14(1), 14(4), and Schedule 3 of FLR).

Exemptions

**Article 4(1) of Regulation 104/2000
Article 7 of Regulation 2065/2001
Regulation 6 of SI XXX**

Q.9 What is exempt from the Regulations?

A.9 The Regulations do not apply to sales of small quantities of fish sold directly to the final consumer by either fisherman (e.g. from the quayside) or aquaculture producers (e.g. from lakes, ponds, etc.) For the purposes of this Regulation, the term "small quantity" is taken to mean sales not exceeding 20 Euros.

**Commercial Designations
and established Lists**

**Article 4(1)(a) of Regulation 104/2000
Article 4(2) of Regulation 104/2000
Article 3 of Regulation 2065/2001
Regulation 4(1) & Schedule of SI XXX
Regulations 6 & 8 of the FLR 1996**

Q.10 How do Member States designate commercial names?

A.10 Member States are required to establish commercial designations of species that shall be used when applying Article 4(1)(a) of 104/2000. These commercial designations are also the names prescribed by law (as stated in

Regulations 6(1) of the FLR), which means that they are the commercial names of fish in compound fish products.

The national list of agreed commercial designations for the UK is set out in a Table in the Schedule to the relevant legislation for England, Scotland, Wales, and Northern Ireland.

Q.11 How will fish be named?

A.11 Fish at retail sale must be named using the accepted commercial designations as listed in the Table of the relevant SIs. Therefore, a species of fish listed in column 2 of the Table will have to use the corresponding commercial designation given for that species in column 1. These commercial designations cannot be used for species of fish other than those listed in the Table.

The scientific (Latin) name of the fish species determines the commercial designation or the designated common name. For example, if fish is of the species *Hippoglossus hippoglossus* (L.), it must be described as “halibut” whilst *Hippoglossus stenolepis* must be described as “Pacific halibut”. Similarly, in the case of shellfish, the corresponding commercial designation for that species must be used to describe the product. For example, all species of *Homarus* would be labelled as “lobster”.

Q.12 Do scientific names have to be given on retail labelling?

A.12 No, this is optional. The scientific name of the species can be indicated on final sale to the consumer if producers/retailers so wish but it is not mandatory. If they choose to use the scientific name, it must be used in addition to the commercial designation and not as a substitute for it. Examples: *Melanogrammus aeglefinus* (L.) for haddock;
Salmo salar (L.) for salmon or Atlantic salmon;
all species of *Penaeus* for king prawn.

Q.13 Are there any circumstances where the specified commercial designations would not have to be used?

A.13 Yes. In the case of smoked fish, with the exception of salmon, the fish may be called by a customary name that is not necessarily the assigned commercial designation. For example, *Clupea harengus* (L.) would ordinarily be described as ‘herring’ but when smoked is known in the UK by its usual customary name as a ‘kipper’.

Commercial Designations in the same language	Article 4(3) of Regulation 104/2000 Regulation 4(2) of SI XXX
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Q.14 How must commercial designations established by other Member States for the same species be treated?

A.14 Member states are required to recognise common commercial designations/names laid down by other Member States in the same language for the same species. Therefore, as regards names established in English, the UK would need to recognise, as alternatives, the names established by

Ireland and vice versa. Otherwise each Member State has their own list of commercial designation which must be used when exporting fish to those Member States.

Changes to the Commercial Designations Lists	Article 3 of Regulation of 104/2000 Article 2 of Regulation 2065/2001 Regulation 8 of SI XXX Regulation 8 of the FLR 1996
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Q.15 Can commercial designations/species not included in the Schedule be marketed and, if so, how?

A.15 Yes. If a newly commercialised species is to be marketed and not yet established in the national list(s), it may be marketed under a provisional (i.e. temporary) commercial designation agreed and laid down by the Competent Authority of the Member State.

The provisional name can be used for up to a maximum of 5 months after which it must have been accepted as a definitive commercial designation and added to the established national list(s).

Q.16 Who is the Competent Authority for the UK?

A.16 The Food Standards Agency is the Competent Authority for the UK (see contact details).

Q.17 What rules apply if no definitive or provisional commercial designation has been assigned to a new species?

A.17 In such cases, it is still possible to market a new or existing species for which no established designation exists provided the name accurately describes the product in accordance with general labelling provisions (Regulation 8 of the FLR). However, as soon as is possible, the producer, operator, etc., should seek a provisional commercial designation from the Competent Authority with a view to making it definitive.

Q.18 How will additions and/or revisions be made to the list in the future?

A.18 Future revisions to update the established national lists will be made by amending the relevant SIs following consultation with the Agency's expert consultative group and public consultation. Any changes to the UK list of commercial designations will be notified to the Commission by the Agency as required by Article 2(2) of 2065/2001.

Production Method	Article 4(1)(b) of Regulation 104/2000 Article 4 of Regulation 2065/2001
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Q.19 What is the production method?

A.19 The production method relates to the manner in which the fish is 'harvested', that is whether it is caught at sea or in freshwater, or produced by aquaculture as defined above.

Q.20 How should the production method be indicated?

A.20 Regulation 2065/2001 requires the production method to be given in one of the following ways:

(a) **for products caught at sea or in freshwater:** the terms “caught” or “caught in freshwater”;

(b) **for products of aquaculture:** the terms “farmed” or “cultivated” must be used to indicate that the fishery and aquaculture products have been farmed.

Although not differentiated, during negotiations the UK requested that the term ‘farmed’ is used for fish (e.g. farmed cod), whilst the term ‘cultivated’ is used for shellfish production (e.g. cultivated oysters) where beds are seeded but not fed.

In order to ensure accurate and meaningful information is provided to the consumer, we **recommend** that the method of production be given prominently with the commercial designation (e.g. “farmed Scottish salmon – see also Qs.31-32).

Omission of Reference to the Production method	Article 4(2) of Regulation 2065/2001 Regulation 5 of SI XXX
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Q.21 Are there any circumstances where the production method need not be indicated?

A.21 Yes. For fish caught at sea, the terms “caught” or “caught in” do not have to be used if it is obvious from the commercial designation and the catch area that species have been caught in freshwater or at sea e.g. Torbay sole, North Sea cod, Cornish mackerel, N.E. Atlantic haddock. The reader is also advised to consult Q.26 on more precise catch areas.

However, if there is any doubt about the production method, then omitting the terms “caught” or “caught in” is not permitted.

Some commercial names also include geographic names which do not relate to where the fish is actually caught, e.g. Alaska pollack, Norway Lobster or Dublin Bay prawn. Whilst these names can continue to be used, where the specific fish are not, in fact, caught in that catch area this must be made clear in product labelling, e.g. Alaska pollack caught in the Pacific, Dublin Bay Prawn caught in N.E. Atlantic.

Catch Area	Article 4(1)(c) of Regulation 104/2000 Article 5 & Annex of Regulation 2065/2001 Regulation 7 of SI XXX
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Q.22 What information is required for the catch area?

A.22 By virtue of the wording “shall consist” at Article 5(1) of Regulation 2065/2001, the catch area must be indicated as follows:

(a) **for products caught at sea**, the origin must be indicated by reference to one (or more, if appropriate) of 12 catch areas based on FAO statistical classifications. These are specified in the Annex to 2065/2001 and reproduced as Annex II to this Guidance.

A map identifying the FAO catch areas is included at Annex III to this Guidance. For example, the catch area, "North-East Atlantic", would need to be indicated on the label for any fish/shellfish caught in the UK (e.g. North Sea, Irish Sea), Norway, Iceland, Denmark (West Coast) but fish caught on the East Coast of Denmark or around the Danish Islands would be the "Baltic Sea". Fish caught in New Zealand waters would need to make reference to the "Pacific Ocean". Similarly, salmon caught in Alaska, would need to make reference somewhere on the label to the catch area, "Pacific Ocean" or "Pacific".

(b) **for products caught in freshwater**, the origin must give a reference to the Member State or third country of origin. For example, trout caught in freshwaters of Spain or Norway, reference would need to be made to Spain or Norway respectively. Product labelling may, for example, state "Norwegian trout" or "trout caught in the freshwaters of Norway", etc.

(c) **for farmed and cultivated products**, the origin must indicate the Member State or third country in which the product underwent final development. So, for example, if a fish started its life farmed in France and Denmark but was "finally farmed" in Iceland, the labelling is required to state "Farmed Icelandic fish".

However, consistency with separate advice on country of origin labelling would suggest that all countries be indicated on the labelling to give consumers accurate and meaningful information on the true place(s) of origin of the fish. So in the above example, we **recommend** the product be labelled as "Farmed Icelandic fish reared in France and Denmark".

Q.23 What is meant by Member State and third country of origin?

A.23 Member State means one of the 15 member countries of the European Union (EU) whilst "third country of origin" is taken to mean any country that is not a member of the EU.

Q.24 What does "final development" mean for farmed products?

A.24 The term "final development" could be taken to mean when the fish is finally 'harvested' from the water when it reaches its final size (that is, full maturity or any earlier stage to which it is being grown for its intended use for sale to the final consumer).

Q.25 What are the rules for farmed products coming from more than one Member State or third country?

A.25 National legislation (Regulation 7 of SI XXX) permits an indication of the various Member States or third countries for a product that has been farmed in various countries. A different way of presenting this information is given above (see A.22 at (c) above).

Q.26 Can a more precise catch area be given and, if so, how does this information relate to the mandatory indications?

A.26 Article 5(2) of Regulation 2065/2001 allows operators to indicate a more precise geographic origin in terms of the catch or production area. However, this provision is not mutually exclusive with the requirements of Article 5(1). Hence even if a more precise area is given it is still necessary to indicate one of the twelve FAO marine catch areas or the Member State or third country of production.

Hence salmon farmed in Scotland could be labelled as “(Farmed) Scottish Salmon”. However, the Regulation still requires an indication that the product comes from the Member State i.e. United Kingdom. Similarly Cornish mackerel would still need to indicate that it has been caught in the N.E. Atlantic. Thus, Article 5 does not allow the producer/retailer to avoid the requirement to indicate the FAO catch area for products caught at sea or the production area for farmed products. In the above examples, therefore, an indication that the salmon comes from Scotland alone or that the mackerel comes from Cornwall only will not satisfy the requirements of this Article in 2065/2001.

However, there is flexibility in that the two pieces of information do not have to appear together. The indication of the UK origin for “Scottish Salmon” could be achieved in various ways e.g. Scottish Salmon as the name of the product, with “produce of UK” or “produce of Scotland (UK)” on the back of the label or mention of the UK in the text describing the product. The information could also be given by a notice in the sales area of the product (see also Qs.31-33).

Q.27 How should fish be labelled in terms of catch area if it is not immediately obvious which area it came from?

A.27 All catch areas are covered by the FAO identification system. The reader is advised to consult the map at Annex III if in doubt as this shows the longitude and latitude of the FAO boundaries for each of the catch areas.

Q.28 Do I quote “caught in the N.E. Atlantic” or “caught in Area 27”?

A.28 The Regulations require the name of the catch area (i.e., relevant sea, ocean) rather than the numeric designation should be given on labelling. However, it may be sufficient to quote the numeric designation of the catch area for traceability purposes in commercial documents.

Further, it may be acceptable to abbreviate catch areas, e.g. North-East Atlantic may be written as N.E. Atlantic.

Different and Same Species in Mixed Batches	Article 6 of Regulation 2065/2001
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Q.29 How will the new rules apply to products containing a mixture of different species?

A.29 The Regulations apply in full to each of the species that go to make up the product combination, that is the commercial name, production method and

catch area for each and every species must be given. For example, a cod/haddock/prawn mixture sold as a seafood mix will require all the information requirements for each of the three species.

Q.30 How would you label a product containing mixtures of fish of the same species with different production methods and/or obtained from different catch/production areas?

A.30 For mixtures of fish of the same species coming from a variety of production methods, the Regulations require that the labelling must state each production method. For example, “a mix of farmed Scottish cod and cod caught in the N.E. Atlantic”, in the order in which origin predominates.

For mixtures of fish of the same species coming from different catch areas or fish-farming countries, the origin which is most representative of the batch in terms of quantity must be stated. The term, “batch”, is not defined but processors must decide whether the basis of the labelling is representative and not misleading to the consumer. Hence a batch of “farmed salmon steaks” may originate predominantly in Scotland but also Norway or Chile and could be described as “farmed salmon steaks originating from Scotland, Norway and Chile”.

As already outlined at A.22(c), consistency with separate advice on country of origin labelling suggests that all countries be indicated on the labelling to give consumers accurate and meaningful information on the true places of origin of the batch.

The above labelling requirements apply to both pre-packed and products sold loose at retail.

Further examples of possible different scenarios and associated labelling requirements for mixed batches of cod of the same species, predominantly obtained from the UK but also from different catch areas, using different production methods are outlined at Annex IV to the Guidance.

Flexibility in layout of labelling information	Regulations 35-36 & 38-39 of FLR 1996
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Q.31 How should the new labelling information be given?

A.31 There are no specific requirements in Regulations 104/2000 and 2065/2001 on how and/or where the new information such as the catch area or production method should appear on the label. The producer/retailer therefore has the flexibility to decide where the new information is located. To ensure consumers are clearly informed, we **recommend** the information be presented in a way that is **easy to understand, clearly legible**, indelible and given in a conspicuous place so as to be **easily visible** in accordance with general requirements of the Food Labelling Regulations 1996 (Regulations 35-36 & 38-39 of the FLR).

Information on production method and catch area should be provided in a meaningful and accurate manner to consumers. We **recommend** that the information is placed where it is most informative and appropriate to the consumer and producer/retailer alike, consistent with general labelling provisions and any separate Agency advice aimed at improving the clarity of food labels.

It may be that the producer, retailer, etc., wish to keep the product title as simple as possible with information on origin given in a separate panel elsewhere on the product. Guidance on the sort of issues which need to be considered in designing the layout of a label has been provided by the Institute of Grocery Distribution in *Packaging legibility: recommendations for improvements* (ISBN: 1 898044 09 0).

Q.32 How should products sold loose (non-prepacked) be labelled (e.g. at supermarket fish counters, fishmongers, etc.)?

A.32 The manner of marking for food which is not pre-packed and sold loose should be consistent with general labelling requirements (Regulation 36 of FLR). That is the name of the food on a label attached to the food or a ticket or notice should be “readily discernible by the purchaser at the place where he chooses that food”.

In terms of best practice, we would **recommend** that where farmed fish/shellfish is offered for sale, an indication of this production method be indicated on the ticket/label next to the product. This will provide consumers with accurate and meaningful information about the production method and help consumer choice as to whether they wish to purchase a farmed fish product or not.

With regard to the catch area, rather than ‘crowding’ the ticket/label it is possible for an in-store notice, wall chart/poster, etc., near the fish counter which is “readily discernible” by the purchaser at point of sale to carry this information. For example, “all our Icelandic fish is caught in the North-East Atlantic” or for fish caught in the North Sea, off the coast of Cornwall, etc. to state “all our fish is caught in the North-East Atlantic”.

Q.33 Should fish/shellfish sold in catering establishments such as restaurants be labelled with the new information?

A.33 No, not usually. As stated in A.2 above, products sold by caterers or catering outlets are outside the scope of the new Regulations. Generally, in catering establishments most fish and shellfish products are sold as prepared composite products e.g. prawn cocktail, coated fish. However, the new labelling information will be needed for a very few products falling within Chapter 3 fish and shellfish offered for retail sale to the final consumer and not consumed on the premises, e.g. a catering outlet that also sells take-aways for home consumption. In such cases, apart from the product name, the new labelling information relating to production method and catch area could be given in the menu or on a notice, wallchart/poster readily discernible by the purchaser at point of sale (see also Regulation 36 of the FLR).

Traceability**Article 8 of Regulation 2065/2001****Q.34 What are the traceability requirements?**

Q.34 Information on the commercial designation, production method, and catch area, including the scientific name of the species, must be available at each stage of marketing of the species.

This 'traceability information' applies universally to all fish and shellfish sold in a presentation covered by Chapter 3 of the CN Codes and includes the production and intermediate marketing stages (i.e. from producer to processor, wholesaler, retailer, caterer, etc.). The reader is also advised to consult Q.7.

Q.35 How will this information need to be provided?

A.35 This information can be given either by:

- (i) labelling or on packaging of the product; or,
- (ii) commercial documents accompanying products such as the 'sales note', invoice, bill of lading, etc.

It is generally understood that commercial documentation rather than labelling of the product *per se* is the usual means of providing traceability information.

Q.36 What is meant by "each stage of marketing"?

A.36 This is considered to be all stages of the distribution and wholesale chain from when the fish is first caught/landed or harvested in the case of farmed products. This includes all intermediate marketing stages through preparation (e.g. de-tailing, gutting), processing/re-processing, throughout the wholesale / distribution chain up to the point of retail sale. The importation process is also regarded as a 'stage of marketing' where the new labelling information will be needed.

Control**Article 9 of Regulation 2065/2001
Regulation 9 of SI XXX****Q.37 What controls are in place for checking traceability?**

A.37 Traceability checks will normally be carried at the point of sale by food authorities (of each local authority) through Trading Standards Officers or Environmental Health officers when checking the required information.

In addition, DEFRA's Sea Fisheries Inspectorate may also check traceability information in carrying out their responsibility for fish marketing for products at landing, wholesale chain and transit up to the point of retail sale as they already require information on the species, geographic origin for the 'Sales Note' (Article 9(4) of Council Control Regulation 2847/93).

The Agency, acting on behalf of the UK, will be notifying the Commission of the above verification arrangements together with notification of the SI enabling and penalty provisions when they are in place.

Enforcement provisions**Regulation 3 of SI XXX****Q.38 What are the offences and penalties under national legislation?**

A.38 It will be an offence to offer for retail sale fish/shellfish that falls within the scope of the new Regulations without the consumer information required on product labelling or the relevant information for traceability and control purposes. Details on the level of fines set for such offences are given at Regulations 3(1) and 3(2) of SI XXX.

Transitional arrangements**Article 10 of Regulation 2065/2001****Q.39 Are there any transitional provisions before the new labelling information needs to be given?**

A.39 Yes. The Regulation applies from 01 January 2002 but products labelled and packaging placed on the market or labelled before this date can continue to be sold until stocks have been used up.

Q.40 What is meant by “placed on the market”?

A.40 This can be taken to mean any products and/or packaging that already exists at any stage of the marketing chain on the UK market as well as products that are in transit from the UK to other Member States as well as third countries to other EU Member States, including the UK and vice versa. Therefore, this includes: products labelled prior to 01 January 2002 and on retail sale; pre-packed frozen products held in cold storage as well as stocks of existing pre-printed packaging material being stored empty.

Q.41 Is the term, “packages”, the intended terminology at this Article?

A.41 No. Article 10 of 2065/2001 makes reference to “packages” but this is a typographical error and should, in fact, refer to “packaging”. Although no corrigendum to the Regulation has been published as yet, the Commission has acknowledged this error. In summary, “packages” should be read as “packaging” at this Article.

Further Information about these Guidance Notes

Enquiries about, and further copies of, these guidance notes may be obtained from:

Food Standards Agency
Room 115B, Aviation House
125 Kingsway
London
WC2B 6NH

Telephone: 020 7276 8152
020 7276 8157
Fax: 020 7276 8193

Other Contacts

Further information on other specific aspects relating to CN Codes and traceability may be obtained from:

Customs & Excise
Customs Tariff Classification
Helpline (Option 3, Agricultural
and Food Sector)
Southend
Essex

Telephone: 01702 366 077
Fax: 01702 367 342

DEFRA's Sea Fisheries Inspectorate

Telephone: 020 7238 5801

Annex I(a)**Fishery and Aquaculture Categories**

(according to Chapter 3 of Customs Tariff, reproduced from Articles 1(a), (b) and (c) of Council Regulation 104/2000):

CN Code		Description of goods
(a)	0301	Live fish
	0302	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading No 0304
	0303	Fish, frozen excluding fish fillets and other fish meat of heading No 0304
	0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen
(b)	0305	Fish dried, salted or in brine; smoked fish whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption
(c)	0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; crustaceans in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of fish, fit for human consumption
	0307	Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption

Annex I(b)

Examples of fish products included or excluded from the new labelling requirements (see also Qs.1-6)

Fish Products Included (Chapter 3 Products)	Fish Products Excluded (Non-Chapter 3 Products)
Products to which <u>no</u> other ingredients, (including additives, colourings and flavourings) except salt, have been added	Products with added ingredients or which have been further processed, preserved, treated or cooked
Smoked fish (cold or hot smoked by natural processes) with only salt, e.g. - smoked salmon - smoked mackerel (e.g. Buckling), - kippers, - smoked haddock	All smoked fish with colours, flavours etc., present as additional ingredients other than from smoking process and salts, e.g. - smoked salmon with honey and sugar - smoked mackerel with colourings and other ingredients (e.g. peppered smoked mackerel) Poached salmon, poached salmon fillets / slices
Dried fish	Composite products where the fish is an intrinsic component of the end-product: - coated, battered, breaded fish products, e.g. fish fingers, coated scampi
Salted fish, e.g. salted cod	Bottled or canned fish products, e.g. canned tuna, tinned sardines, canned/pickled cockles
Fish in brine, e.g. anchovies	Fish ready meals and recipe dishes, e.g. fish pies, fish-in-sauce products, prawn cocktail, smoked salmon salad, fish dinner sold as a composite product even if it contains raw and/or smoked fish
Surimi	Surimi-based preparations and/or products such as crabsticks, fishsticks and similar
Crustaceans, whether in shell or not, e.g. prawns, crabs, lobsters Cooked in-shell crustaceans Cooked, unpeeled crustaceans Peeled, uncooked crustaceans	Crustaceans which are <u>both</u> cooked and peeled, e.g. cooked and peeled prawns

Fish Products Included (Chapter 3 Products)	Fish Products Excluded (Non-Chapter 3 Products)
Molluscs, whether in shell or not, e.g. mussels, scallops, oysters	Cooked molluscs, e.g. cockle meat out of shell, winkle meat with or without shell
Fish subject to physical processes such as cutting, slicing, flaking, e.g. - frozen fish blocks or shellfish not treated in any way - fish steaks (tuna steak) - minced fish meat - slices of fish (smoked salmon slices) flaked, cubed/diced fish to add to recipes for home consumption	Sandwiches, e.g. prawn sandwiches, salmon sandwiches
Fish with butter and/or sauce packaged <u>separately</u>	Fish where butter and/or sauce is added directly on to the fish is considered a further process and, therefore, becomes a Chapter 16 product

Annex II**Catch Areas**

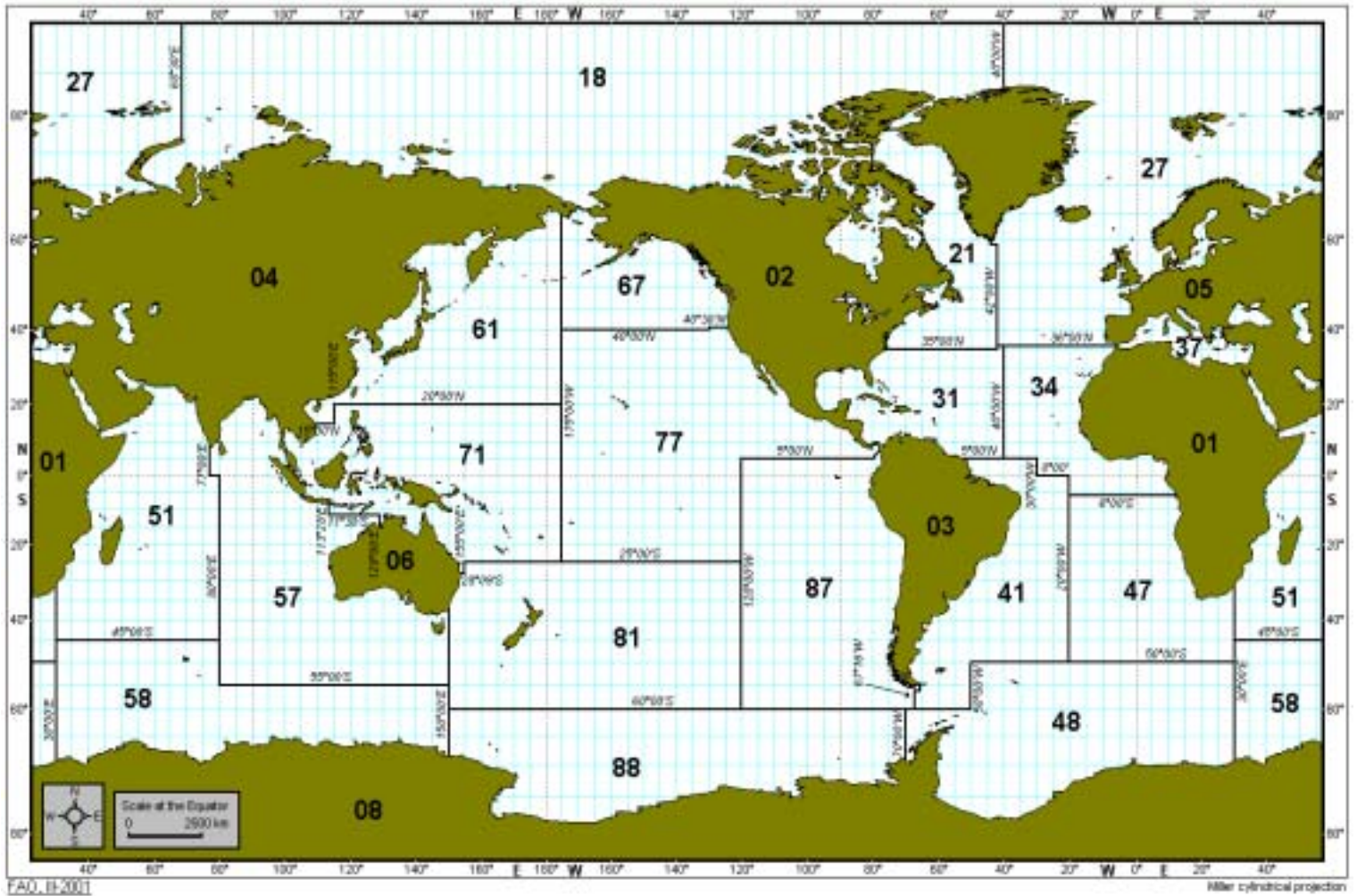
(reproduced from Annex of Commission Regulation 2065/2001)

Catch area	Identification of the area ⁽¹⁾
North-West Atlantic	FAO area 21
North-East Atlantic ⁽²⁾	FAO area 27
Baltic Sea	FAO area 27.III d
Central-Western Atlantic	FAO area 31
Central-Eastern Atlantic	FAO area 34
South-West Atlantic	FAO area 41
South-East Atlantic	FAO area 47
Mediterranean Sea	FAO areas 37.1, 37.2 and 37.3
Black Sea	FAO area 37.4
Indian Ocean	FAO areas 51 and 57
Pacific Ocean	FAO areas 61, 67, 71, 77, 81 and 87
Antarctic	FAO areas 48, 58 and 88

(1) FAO yearbook. Fishery statistics. Catches.
Vol.86/1. 2000.

(2) Excluding the Baltic Sea.

FAO Map of the Major Fishing Areas of the World



Source: FAO Fishery Statistics, Map of Major Fishing Areas for Statistical Purposes

Mixed Batches of Fish of Same Species

Note: A number of scenarios can be envisaged. Using, for example, a mixture of fish of the same species such as Cod obtained predominantly from the UK either caught (catch area being the North-East Atlantic) or farmed but same species Cod from other areas present also (e.g. Norway, Baltic Sea). The following scenarios with their labelling requirements are outlined :

Species / Commercial Designation (CD)	Production Method (PM)	Catch Area (CA)	Labelling information requirements
Same species	same PM	same CA	Single entity therefore labelling should indicate: - CD, PM, CA e.g. "North Sea Cod" NE Atlantic indicated somewhere on the label
Same species	different PM	different CA	CD all PMs main CA + others e.g. "Cod caught and farmed from mainly UK and other areas" (but we recommend that other CAs or countries are named) NE Atlantic required to be indicated somewhere on the label but we recommend also referring to the Baltic Sea
Same species	same PM	different CA	CD PM main CA + others e.g. "N.E. Atlantic cod and from other areas" (but we recommend that other CAs or countries are named) CA already indicated in the name but we recommend also referring to the Baltic Sea
Same species	different PM	same CA	CD all PMs CA e.g. "A mix of NE Atlantic cod and UK farmed cod" or "NE Atlantic cod" or "UK farmed cod" depending on whether it is a fish or piece of fish from such a batch. If use Scottish cod, then NE Atlantic or UK indicated somewhere on the label if not already in the product name as above

Excerpt from Council Regulation (EC) No 104/2000
of 17 December 1999
on the common organisation of the markets in fishery and aquaculture
products

Chapter 2

Consumer Information

Article 4

1. Without prejudice to the provisions of Directive 79/112⁽¹⁾, the products referred to in Article 1(a), (b) and (c) may not be offered for retail sale to the final consumer, irrespective of the marketing method, unless appropriate marking or labelling indicates:

- (a) the commercial designation of the species;
- (b) the production method (caught at sea or in inland waters or farmed);
- (c) the catch area.

These requirements shall not however apply to small quantities of products disposed of directly to consumers by either fishermen or aquaculture producers.

2. For the purposes of paragraph 1(a), the Member States shall draw up and publish a list of the commercial designations accepted in their territory, for at least all the species listed in Annexes I to IV of this Regulation, not later than 1 January 2002. The list shall indicate the scientific name for each species, its name in the official language or languages of the Member State and, where applicable, any other name or names accepted or permitted locally or regionally.
3. Member States shall notify the Commission of the list of commercial designations referred to in paragraph 2 at least two months in advance of the date referred to in paragraph 2. Member States shall recognise designations listed by other Member States for the same species in the same language.

4. Detailed rules for applying this Article shall, where necessary, be adopted in accordance with the procedure laid down in Article 38(2).

⁽¹⁾ Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer (OJ L33, 8.2.1979 p.1). Directive as last amended by Directive 97/4/EC of the European Parliament and of the Council (OJ L43, 14.2.1997 p.21).

**COMMISSION REGULATION (EC) No 2065/2001
of 22 October 2001**

**laying down detailed rules for the application of Council Regulation (EC)
No 104/2000 as regards informing consumers about fishery and
aquaculture products**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products⁽¹⁾ as amended by Commission Regulation (EC) No 939/2001⁽²⁾, and in particular Article 4(4) thereof,

Whereas:

1. Article 4 of Regulation (EC) No 104/2000 provides that certain fishery products may be offered for retail sale only on condition that a number of requirements regarding consumer information are met. The scope of that obligation should be specified.
2. It should be possible for the lists of commercial designations accepted in the territory of the Member States to be changed in the light of market requirements.
3. The requirements governing consumer information, in particular as regards the commercial designation and method of production of a species, and the area in which it is caught, should be specified.
4. Small quantities of products may only be exempt from the obligation regarding marking or labelling if they comply with a number of requirements, which should be defined.
5. The scope of the information to be passed on throughout the marketing chain should be specified.

(1) OJ L 17, 21.1.2000 p.22

(2) OJ L 132, 15.5.2001, p. 10.

6. Provision should be made for the Member States to establish arrangements for checking the traceability of products covered by this Regulation.
7. The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Scope

Article 1

Without prejudice to the provisions applicable pursuant to Directive 2000/13/EC of the European Parliament and of the Council³, this Regulation shall apply to the fishery and aquaculture products included on the lists and covered by the presentations falling within Chapter 3 of the Combined Nomenclature which are marketed within the Community, irrespective of their origin, including products that are prepackaged.

CHAPTER II

Changes to lists of commercial designations and requirements governing consumer information

Article 2

1. Any species not included on the list of commercial designations accepted by a Member State may be marketed under a provisional commercial designation laid down by the competent authority of the Member State. A definitive commercial designation included on the list of accepted designations shall be laid down by the Member State within five months of the date on which the species in question is given the provisional commercial designation.
2. Any changes to the list of commercial designations accepted by a Member State shall be notified forthwith to the Commission, which shall inform the other Member States thereof.

⁽³⁾ OJ L 109, 6.5.2000, p. 29.

Article 3

For the purposes of applying Article 4(1)(a) of Regulation (EC) No 104/2000, the commercial designation of a species shall be as established in each Member State in accordance with Article 4(2) of that Regulation.

Operators may also indicate the scientific name of the species concerned upon sale to the final consumer.

Article 4

1. The reference to the production method in accordance with Article 4(1)(b) of Regulation (EC) No 104/2000 shall consist of one of the following expressions, according to whether the product in question was caught, at sea or in freshwater, or resulted from aquaculture:

- In Spanish: “pescado” or “pescado en aguas dulces” or “criado”,
- in Danish: “fanget” or “fanget i ferskvand” or “opdrættet” ,
- in German: “gefangen” or “aus Binnenfischerei” or “aus Aquakultur” or “gezüchtet”,
- in Greek: [Greek text]
- in English: “caught” or “caught in freshwater” or “farmed” or “cultivated”,
- in French: “pêché” or “pêché en eaux douces” or “élevé”,
- in Italian: “prodotto della pesca” or “prodotto della pesca in acque dolci” or “prodotto di acquacoltura”,
- in Dutch: “gevangen” or “gevangen in zoet water” or “aquacultuurproduct”,
- in Portuguese: “capturado” or “capturado em água doce” or “de aquicultura”,
- in Finnish: “pyydetty” or “pyydetty makeasta vedestä” or “viljelty”,
- in Swedish: “fiskad” or “fiskad i sötvatten” or “odlad”.

2. In the case of species caught at sea, Member States may authorise the omission of the reference to the production method upon sale to the final consumer provided that it is obvious from the commercial designation and the catch area that they are species caught at sea. Such authorisation may not be granted if there is doubt as to the production method.

3. For the purposes of indicating the production method, farmed products shall be those resulting from aquaculture as described in paragraph 2.2(a) of Annex III to Council Regulation (EC) No 2792/1999⁽¹⁾.

Article 5

1. The indication of the catch area in accordance with Article 4(1)(c) of Regulation (EC) No 104/2000 shall consist of the following:
 - a) in the case of products caught at sea, a reference to one of the areas mentioned in the Annex hereto;
 - b) in the case of products caught in freshwater, a reference to the Member State or third country of origin of the product;
 - c) in the case of farmed products, a reference to the Member State or third country in which the product undergoes the final development stage. Where the product is farmed in more than one Member State or third country, the Member State in which it is sold to the final consumer may at the time of such sale authorise the various Member States or third countries in which it is farmed to be indicated.
2. Operators may indicate a more precise catch area.

Article 6

1. Where a combination of different species is offered for sale, the indications referred to in Article 4(1) of Regulation (EC) No 104/ 2000 shall be provided for each species.
2. Where a combination is offered for sale consisting of the same species but derived from a variety of production methods, the method for each batch must be indicated. Where a combination is offered for sale consisting of the same species but derived from a variety of catch areas or fishfarming countries, at least the area of the batch which is most representative in terms of quantity must be stated, together with an indication that the products also come from different catch or fishfarming areas.

(1) OJ L 337, 30.12.1999, p.10

Article 7

For the purposes of applying Article 4(1) of Regulation (EC) No 104/ 2000, each Member State shall determine the small quantities of products sold directly to consumers, provided that these do not exceed the value of EUR 20 for each purchase. The source of these small quantities may only be the seller' s own business.

CHAPTER III

Traceability and control

Article 8

The information required concerning the commercial designation, the production method and the catch area shall be available at each stage of marketing of the species concerned. This information together with the scientific name of the species concerned shall be provided by means of the labelling or packaging of the product, or by means of a commercial document accompanying the goods, including the invoice.

Article 9

1. The Member States shall establish arrangements for checking the application of Article 8.
2. The Member States shall notify the Commission, as soon as they are adopted and by 31 March 2002 at the latest, of the measures taken under paragraph 1. The Member States shall notify the Commission by 31 March 2002 at the latest of the existing measures which comply with the requirements of Article 8.

CHAPTER IV

Final provision

Article 10

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 2002. However, products placed on the market or labelled prior to that date and packages which do not comply with this Regulation may be marketed until stocks have been used up.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 October 2001.

For the Commission
 Franz FISCHLER
 Member of the Commission

ANNEX

Catch area	Identification of the area ⁽¹⁾
North-West Atlantic	FAO area 21
North-East Atlantic ⁽²⁾	FAO area 27
Baltic Sea	FAO area 27. III d
Central-Western Atlantic	FAO area 31
Central-Eastern Atlantic	FAO area 34
South-West Atlantic	FAO area 41
South-East Atlantic	FAO area 47
Mediterranean Sea	FAO areas 37.1, 37.2 and 37.3
Black Sea	FAO area 37.4
Indian Ocean	FAO areas 51 and 57
Pacific Ocean	FAO areas 61, 67, 71, 77, 81 and 87
Antarctic	FAO areas 48, 58 and 88

(1) FAO Yearbook. Fishery statistics.
 Catches. Vol. 86/1. 2000.

(2) Excluding the Baltic Sea.