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# European Union: Labelling Requirements

## A Guideline for the Seafood Industry

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*New Zealand Seafood Standards Council*

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## 1.0 Scope & Purpose

New legislation has been introduced in the European Union that will impact on seafood labelling and traceability requirements across the seafood supply chain, from the point of harvest/capture through to retail sale.

This guide focusses on the labelling aspect only and allows for the various exemptions that exist for product imported to the EU under the EU IUU Catch Certification scheme and that product which is excluded from the Catch Certification scheme.

## 2.0 EU Labelling Legislation

The following is intended to be an outline of the current position but is in no way a definitive guide to the requirements of the law.

### 2.1 Legislation

The primary legislation that will have an impact includes:

1. The Common Fisheries Policy, often referred to as the CMO legislation, including:  
Council Regulation (EC) No 1224/2009  
Commission Implementing Regulation (EU) No 404/2011  
Council Regulation (EU) No 1379/2013
2. The provision of food information to consumers, often referred to as the FIC legislation including:  
Regulation (EU) 1169/2011

### 2.2 Definitions

The following definitions are used in the legislation.

#### **Lot (Reg 1224/2009)**

A 'lot' is defined as a quantity of fisheries and aquaculture products of a given species of the same presentation and coming from the same relevant geographical area and the same fishing vessel or group of vessels or the same aquaculture production unit.

#### **Mass Caterers (Reg 1169/2011)**

Refers to establishments (including a vehicle or fixed or mobile stall) such as restaurants, canteens, schools, hospitals and catering enterprises in which in the course of a business, food is prepared to be ready for consumption by the final consumer.

#### **Pre-packed Food (Reg 1169/2011 & 1379/2013)**

Means any single item for presentation as such to the final consumer and to mass caterers, consisting of a food and the packaging into which it was put before being offered for sale, whether such packaging encloses the food completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging; pre-packed food does not cover foods packed on the sales premises at the consumer's request of pre-packed for direct sale.

### Place of Provenance (Reg 1169/2011)

Means any place where a food is indicated to come from, and that is not the 'country of origin' as determined in accordance with Articles 23 to 26 of Regulation EEC No 2913/92; the name, business name or address of the food business operator on the label shall not constitute an indication of the country of origin or place of provenance of food within the meaning of this regulation.

### Unprocessed products (Reg 852/2004)

Means foodstuffs that have not undergone processing, and includes products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, husked, milled, chilled, frozen, deep-frozen or thawed.

### Other EU Terms:

- Production – refers to the harvest or catching
- Date of Production – refers to the harvest or catching date
- Production Method – refers to whether the product was wild caught or farmed

## 2.3 What products does the legislation apply to?

Under the CMO legislation (Article 35 of Regulation (EU) No 1379/2013) fishery and aquaculture products referred to in the following table, may only be offered for sale to the final consumer or mass caterer if appropriately marked or labelled.

CN code		Description of the goods
(a)	0301	Live fish
	0302	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304
	0303	Fish, frozen, excluding fish fillets and other fish meat of heading 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 crustaceans, 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
(e)	1212 20 00	– Seaweeds and other algae

The requirements apply to product labelled on or after the 13<sup>th</sup> of December 2014.

### Note:

Product labelled before the 13<sup>th</sup> of December 2014 may continue to be placed on the market until such stocks are used up.

## 2.4 What does the legislation require?

The CMO legislation (Article 35 of Regulation (EU) No 1379/2013) requires the following mandatory information:

- a) The commercial designation of the species and its scientific name;
- b) The production method, in particular by the following words "... caught ..." or "... caught in freshwater..." or "farmed..."
- c) The area where the product was caught or farmed, and the category of fishing gear used in capture of fisheries;
- d) Whether the product has been defrosted
- e) The date of minimum durability, where appropriate

In addition FIC legislation (Council Regulation (EU) 1169/2011) requires:

- a) The name of the food
- b) the list of ingredients
- c) any ingredient or processing aid listed in Annex II or derived from substances listed in Annex II causing allergies or intolerances used in the manufacture or preparation of a food and is still present in the finished product
- d) the quantity of certain ingredients or categories of ingredients
- e) the net quantity
- f) the date of minimum durability or 'use by' date
- g) any special storage conditions and/or conditions of use
- h) the name or business name and address of the food business operator referred to in Article 8 (1)
- i) the country of origin or place of provenance where provided for in Article 26
- j) the instruction for use where it would be difficult to make appropriate use of the food in the absence of such instructions
- k) a nutrition declaration (note requirement doesn't apply until 13 December 2016)

And for frozen unprocessed fishery products, must include:

The date of freezing or the date of first freezing in cases where the product has been frozen more than once, as per the following:

- (a) it shall be preceded by the words 'Frozen on ...'

Following with the date itself or a reference to where the date is given on the labelling. The date shall consist of the day, the month and the year, in that order and in un-coded form.

Note:

In the case of pre-packed food, mandatory food information shall appear directly on the package or on a label attached to the pack.

## 2.5 What is required to be on the Label?

The following to be included on the label of 'pre-packed product'. For non-prepacked fishery and aquaculture product the mandatory information may be provided by means of commercial information:

- **The commercial designation of the species and its scientific name:**

This is the common name and scientific name of the species.

- **The production method:**

Refers to whether the product was wild caught or farmed. The label must identify if the product was either:

- wild caught; or
- caught in freshwater; or
- farmed

- **The area where the product was caught or farmed:**

The Production Areas for NZ are:

- Wild caught fisheries = Southwest Pacific, FAO 81
- Freshwater caught fisheries = reference to New Zealand
- Aquaculture production = reference to New Zealand

- **The Category of Fishing Gear:**

On a mandatory basis, if the product was caught by any of the 7 gear types listed in the first column in the table below, the gear type must be included on the label. You can add more detail as per column 2, but this is completely voluntary.

<i>Mandatory information on the category of fishing gear</i>	<i>More detailed information on corresponding gears and codes, in accordance with Commission Regulation (EC) No 26/2004 ( 1 ) and Commission Implementing Regulation (EU) No 404/2011 ( 2 )</i>	
Seines	Beach seines	SB
	Danish seines	SDN
	Scottish seines	SSC
	Pair seines	SPR
Trawls	Beam trawls	TBB
	Bottom otter trawls	OTB
	Bottom pair trawls	PTB
	Midwater otter trawls	OTM
	Pelagic pair trawls	PTM
	Otter twin trawls	OTT
Gillnets and similar nets	Set (anchored) gillnets	GNS
	Driftnets	GND
	Encircling gillnets	GNC
	Trammel nets	GTR
	Combined trammel and gillnets	GTN
Surrounding nets and lift nets	Purse seines	PS

	Lampara nets	LA
	Boat operated lift nets	LNB
	Shore-operated stationary lift nets	LNS
Hooks and lines	Hand lines and pole lines (hand operated)	LHP
	Hand lines and pole lines (mechanised)	LHM
	Set longlines	LLS
	Longlines (drifting)	LLD
	Troll lines	LTL
Dredges	Boat dredges	DRB
	Hand dredges used on board a vessel	DRH
	Mechanised dredges including suction dredges	HMD
Pots and traps	Pots (traps)	FPO

For other fishing techniques not covered by the in the table (e.g. hand gathering or diving), you are free to indicate the fishing technique used if you wish, provided that the information included is clear, unambiguous and verifiable.

**Example of how to label product to include the ‘production’ information:**

Wild caught fish, e.g.

Label should indicate all of the following information: Wild caught by trawl, Southwest Pacific, FAO 81

Wild caught shellfish, e.g.

Label should indicate all of the following information: Wild caught by dredge, Southwest Pacific, FAO 81

Freshwater eels, e.g.

Label should indicate all of the following information: Caught in freshwater by pots and traps, in New Zealand

Aquaculture, e.g.

Label should indicate all of the following information: Farmed in New Zealand

• **Whether the product has been defrosted:**

This applies to product that has been previously frozen but is then thawed and then sold defrosted. It does not apply to:

- any ingredients in the final product (that may have been previously frozen)
- foods for which freezing is a technologically necessary step in production
- fishery and aquaculture products previously frozen for health reasons in accordance with Annex III, Section VIII, of Regulation (EC) No 853/2004 (note this is for specific species for parasite control)
- fishery and aquaculture products which have been defrosted before the process of smoking, salting, cooking, pickling, drying or a combination of any of those processes.

Note:

Food that has been previously frozen but is then thawed and then sold defrosted must have the word 'defrosted' accompanying the name designation of the food.

- **The date of minimum durability, where appropriate**

The date of minimum durability of a food means "the date until which the food retains its specific properties when properly stored"

If, from a microbiological point of view, the product is highly perishable and is therefore likely after a short period to constitute an immediate human health danger, the date must be in the form of a "Use By" date, otherwise a 'Best Before' date is to be used.

The date shall be in the following format, in un-coded form:

Best before Day/Month/Year (e.g. Best before 13/12/2015); or  
Best before end Month/Year (e.g. Best before end December 2015)

For foods that will not keep for more than 3 months, an indication of the day and the month shall be sufficient;

For foods that will keep for more than 3 months but not more than 18 months and indication of the month and year shall be sufficient;

For foods that will keep for more than 18 months an indication of the year shall be sufficient.

- **Date of Freezing**

Frozen unprocessed fishery products, must include:

The date of freezing or the date of first freezing in cases where the product has been frozen more than once, as per the following

- (a) it shall be preceded by the words 'Frozen on ....'

Following with the date itself or a reference to where the date is given on the labelling. The date shall consist of the day, the month and the year, in that order and in un-coded form.

For example: Frozen on 13/12/2014



## **EU Labelling – Frequently Asked Questions**

### **1. Date of first freezing – does this have to be on the label or can it be covered by catch certification?**

For pre-packed fishery and aquaculture product it must be on the label. Date of Freezing (or date of first freezing) is legislated under Council Regulation (EU) 1169/2011, Provision of Food Information for Consumers.

Note – the Definition of Pre-Packed means

“pre-packed food means any single item for presentation as such to the final consumer and to mass caterers, consisting of a food and the packaging into which it was put before being offered for sale, whether it was put before being offered for sale, whether such packaging encloses the food completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging”

### **2. Date of first freezing – Can it be exempted because it is frozen for health or parasite control reasons?**

No – these exemptions only relate to whether or not you need to identify if the product has been defrosted, not the date of freezing.

- foods for which freezing is a technologically necessary step in production
- fishery and aquaculture products previously frozen for health reasons in accordance with Annex III, Section VIII, of Regulation (EC) No 853/2004 (note this is for specific species for parasite control)

### **3. Date of first freezing – can the oldest date (of first freezing) be used for the batch?**

Yes, if product is re-packed or co-mingled then it needs to be labelled with the oldest date of first freezing.

### **4. Farmed product – Do we use FAO 81 for this or leave blank?**

You need to include reference to the country that it was farmed in, i.e. New Zealand, i.e. ‘farmed in New Zealand’

### **5. What are the labelling exemptions for product that is exported with a Catch Certificate (or that which is excluded from Catch Certificate requirements)?**

Product that is exported to the EU with a Catch Certificate (or is excluded from the Catch Cert requirements), are excluded from the following labelling requirements:

- a) Identification number of each lot
- b) External identification number and name of fishing vessel or name of aquaculture production unit
- c) The FAO alpha-3 code of each species
- d) The date of catches or the date of production
- e) Name and address of suppliers

Note:

It is possible that EU importers may request this information so checking with your importer/agent is advised.

## **6. What does the term 'Production' mean in the EU legislation?**

Production refers to harvest or catching not processing or packing and therefore:

- The Date of Production – refers to the harvest or catching date
- The Production Method – refers to whether the product was wild caught or farmed
- The Production Area – refers to either Southwest Pacific, FAO 81 for wild caught fisheries or to New Zealand for farmed or freshwater caught fisheries.

## Further Explanation of Requirements Contained in FIC Legislation (1169/2011)

<b>Labelling or Information Requirements</b>	<b>Further Detail</b>
The name of the food	<p>This shall be the legal name of the food – for seafood this requirement should be met by inclusion of the common and scientific name of the species on the pack. The name shall also be accompanied by the physical condition of the food or treatment it has undergone (e.g. powdered, freeze-dried, quick frozen, smoked, etc) where its omission could mis-lead the purchaser.</p> <p>There are additional naming requirements for fishery products containing added proteins, added water (if more than 5% by weight of final product), and for formed fishery products. See Annex VI of Regulation (EU) 1169/2011</p>
The list of ingredients	<p>The list of ingredients shall include all ingredients in the food, in descending order of weight. It shall be headed up by a suitable heading, i.e. Ingredients List.</p> <p>Specific rules are found in Annex VII</p>
Any ingredient or processing aid listed in Annex II or derived from substances listed in Annex II causing allergies or intolerances used in the manufacture or preparation of a food and is still present in the finished product	<p>Annex II of Regulation (EU) 1169/2011 includes substances which are considered allergenic or intolerant and these must be declared on the label (e.g in the ingredients list) if used and present in the finished food.</p>
The quantity of certain ingredients or categories of ingredients	<p>The indication of the quantity of ingredient or category of ingredients is required if it appears in the name of the food, is usually associated with the name of the food, is emphasised on the labelling or is essential to characterise a food (unless it is a single ingredient food and that is included in its name)</p> <p>There are technical rules applying to this requirement and are found in Annex VIII of Regulation (EU) 1169/2011</p>
The net quantity	<p>Net quantity is to be expressed in the most appropriate units of volume for liquids or units of mass for other products (i.e. grams or kilograms)</p>
The date of minimum durability or 'use by' date	<p>The best before date shall be included unless food would be considered a danger to human health (i.e. unsafe) after a specified time in which case a 'use-by' date shall be applied.</p> <p>Annex X of Regulation (EU) 1169/2011 provides further detail</p>
Any special storage conditions and/or conditions of use	<p>In cases where foods require special storage conditions or conditions of use, e.g keep chilled, keep frozen, specific cooking instructions, or storage/use of food after opening, these shall be included as appropriate</p>
The name or business name and address of the food business operator referred to in Article 8 (1)	<p>Article 8 (1) Refers to the food business operator responsible for the food information, is the operator under whose name or business name the food is marketed, or if that operator is not established in the European Union, the importer into the EU market.</p>

<p>The country of origin or place of provenance where provided for in Article 26</p>	<p>This is mandatory where failure to indicate it might mislead the consumer, particularly if other labelling or information accompanying the food would imply a different origin or place of provenance.</p> <p>For example, NZ caught product that is sent to China for processing prior to export to the EU. This should be identified as: Product of China, Origin New Zealand (or similar wording).</p> <p>Product that is caught on a NZ flagged vessel, processed in NZ and then exported directly to the EU would be: Product of New Zealand.</p>
<p>The instruction for use where it would be difficult to make appropriate use of the food in the absence of such instructions</p>	<p>The instructions for use shall be included if necessary to enable appropriate use of the food.</p>
<p>With respect to beverages containing more than 1.2 % alcohol, the alcoholic strength by volume</p>	<p>Not likely to apply to seafood</p>
<p>A nutrition declaration (note requirement applies from 13 December 2016)</p>	<p>The detailed requirements for nutrition declarations are outlined in Article 30 – 35, Annex I and Annex XIII of Regulation (EU) 1169/2011. These requirements come into force for products labelled on or after 13 December 2016.</p> <p>There are foods which are exempted from the mandatory nutrition declaration requirements, including unprocessed products that comprise a single ingredient. This would be the case for most of the seafood sent to the EU.</p>
<p>With respect to frozen unprocessed fishery products</p>	<p>The date of freezing or the date of first freezing in cases where the product has been frozen more than once.</p> <p>The wording shall say:  'Frozen on ....' Followed by the date of first freezing, the date shall be dd/mm/yy in that order and in un-coded form.</p>