

European Commission
Directorate-General Environment

Study on implementing measures for trade in seal products

Final Report

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European Commission
DG Environment

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In cooperation with



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Executive Summary

Background

The Regulation concerning trade in seals products

The Regulation on the trade in seal products (Regulation (EC) No 1007/2009 of the European Parliament and of the Council)¹ laying down the future conditions for placing seal products on the EU market was adopted on 16th September 2009 and published in the Official Journal of the EU on 31st October 2009. The Regulation was introduced in order to avoid an increase in dissimilar national legislation of EU Member States. Some Member States had already introduced legislation related to this politically sensitive issue which has been discussed extensively in both the general public and at national government level.

The need for the study as input to defining implementing rules

Following the adoption of the Regulation, there is need to gain more knowledge of factors relevant for trade in seal products, including knowledge of seal hunting communities, seal products and the necessary measures to apply the conditions of the Regulation. COWI A/S has been contracted by the European Commission, DG Environment, to undertake a Study on implementing measures for trade in seal products, which provides input to the Commission's process of developing implementing measures for this Regulation. Therefore, the results of this present study are providing input to the development of a suitable traceability scheme that can ensure that the conditions stipulated in the Regulation are met while defining the implementing rules.

Objectives of study

The overall purpose of the study is to provide the Commission with additional information in order to draft implementing measures in terms of traceability schemes in accordance with the Regulation on trade in seal products.

Sealing occurs mainly in the following countries: Greenland, Canada, Russia, Namibia, Norway, Finland and Sweden. Also in the United Kingdom/Scotland seals are killed, although there is no regulated hunt of seals.

Specifically, the study will - through a combination of desk research and stakeholder consultation:

¹ [http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:286:0036:0039:EN:PDF)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:286:0036:0039:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:286:0036:0039:EN:PDF)

1. Provide an in-depth analysis of existing traceability systems concerning seal products in the sealing countries
2. Identify the main seal hunting communities falling under Article 3.1 and Article 3.2 (b) across the sealing countries
3. Provide a detailed list of products that contain or may contain components derived from seals, which are currently on the market or are likely to be marketed in the foreseeable future and identify how these products are currently labelled or marked
4. Look into 'best practice' in other sectors concerning traceability systems in order to screen for valuable lesson learnt
5. Provide recommendations for options for a suitable traceability system for seals products in response to the requirements of the regulation, including requirements concerning the type of information that need to be provided, e.g. place of origin, etc.

The Regulation in short

The Regulation introduces a general ban on placing seal products on the market with three exceptions:

- **Article 3.1:** the seal products result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence. These conditions shall apply at the time or point of import for imported products.
- **Article 3.2.a:** import of seal where it is of an occasional nature and consists exclusively of goods for the personal use of the travellers or their families. The nature and quantity of such goods may not be such as to indicate that they are being imported for commercial reasons.
- **Article 3.2.b:** seal products that result from by-products of hunting that is regulated under national law and conducted for the sole purpose of sustainable management of marine resources. Such placing on the market shall only be allowed on a non-profit basis. The nature and quantity of such products shall not be such as to indicate that they are being placed on the market for commercial reasons

Identification of Communities falling under the scope of the Regulation

Large differences in nature and scale of the hunt

The nature and scale of the hunt vary considerably across the sealing countries. From large scale commercial hunt in Canada, Greenland, Namibia, Russia and Greenland to small scale hunting in Sweden and Finland with a few hundred seals killed on an annual basis for reasons of population control and sustainable management of marine eco systems. All countries with the exception of

Greenland have seal management plans in place and/or quotas for a yearly total allowance catch (TAC).

Article 3.1 - Inuit / indigenous hunt for subsistence exemption

Article 3.1 of the Regulation implies that import is allowed if the following three criteria are met:

1. The product originates from Inuit or Indigenous community
2. The product derives from a hunt traditionally conducted
3. The hunt contributes to the subsistence of the community in question

After an initial screening of affected Inuit and other indigenous communities it is likely that seal deriving from Greenland, Inuit communities of Canada, the Saami population in Northern Scandinavia and Russia as well as a number of other Russian indigenous communities may comply with these requirements.

Article 3.2b - sustainable marine resources management exception

Article 3.2.b, concerning by-product of sustainable management of marine resources allows placing on the market on a non-profit bases and in quantities not indicating a commercial motive contains several complex issues that must be resolved for the implementation of the Regulation. In line with the Marine Framework Directive this study has taken an eco-management approach in interpreting the Regulation, and several of the countries covered by the study have this integrated in their management plans, or are in the process of making such policy. However, how to interpret a non profit basis is a more controversial and complex issue and the Commission must decide on which approach to take to this. This study recommends taking a bottom up approach to this requirement.

The costs of sustainable management of resources can be divided into a number of elements, as some costs occur at individual level (e.g. to the hunter) and other costs occur at regional or national level. In the countries where sealing is conducted with the sole purpose of sustainable management of marine resources as in Sweden and Finland, the actual activity of killing the seals are conducted by hunters on a voluntary basis. The cost of this activity is likely to be much higher if state employed hunters were to do the job as salaries would need to be included as well. Depending on future seal populations development in various regions a further need for population control might occur that requires a more formal system.

Products and trade flows

The Regulation covers all products, processed or unprocessed, derived or obtained from pinnipeds meaning that 1) Phocidae earless seals, or true seals, hereunder, but not limited to harp, hooded, ringed, common and grey seals; 2) Otariidae: eared seals, which are commonly referred to as sea lions and fur seals, hereunder but not limited to the south African fur seal; and 3) Odobenidae: walrus are covered by the Regulation. The main products deriving from these three species are made of the skin/pelt of the seal, the blubber or to a limited extent from the teeth and bones. The latter mainly concerns the walrus.

The main product group placed on the market for EU consumers are fur products. Another product group, are products containing Omega3 from seals. Seal oil contains the three most common Omega3 fat acids, DHA, EPA and DPA, and in theory all products containing these acids may contain seal derivatives. However, in reality seal blubber is only exported in limited scale and processed by a few producers in Canada and Norway. The use of the oil is thus limited, and the most common products containing seal oil are Omega3 capsules and animal food, however also this is limited to a few brands. Seal oil is also to some extent used in the pharmaceutical industry.

There is currently no formalised labelling scheme for seal products. Some producers have their own labelling schemes, e.g. Great Greenland. Moreover, seal oil is likely to be labelled as deriving from seal as it is generally more costly to produce than fish oil and is marketed for additional health effects. However, where oil is just one component in a product, like animal food or pharmaceutical product, existing labelling is more rare.

Currently the trade of seal products on the Community market is small and only covers less than 10% of the global market for seal products and the EU market has been declining for several years now. There may be many reasons for this decline, the current financial crisis is one probable reason and according to stakeholders negative impact of the discussion on the EU ban is another key reason. EU is though still important as transit and processing of seal products, and whether this can continue under this Regulation depends on the Commission's interpretation of the Regulation and application of the term transit.

Minimum requirements to a traceability systems

Based on the assessment of a number of existing traceability systems in other sectors, such as – among others – the traceability system under the EU General Food Law and the Full Chain of Custody Traceability System of the Marine Stewardship Council, the minimum requirements for a traceability system related to seal products are identified.

Three key aspects of a traceability system

These minimum requirements for a traceability scheme are formulated as a set of requirements that economic operators looking to import into the EU must fulfill, and include three key aspects:

- 1) Identification requirements;
- 2) Record and record keeping requirements; and
- 3) The ability to produce traceability reports (verification).

How traceability is subsequently organized depends on the kind of system put in place and the responsibilities allocated to the various parties involved. It appears that the basic elements needed for identification and even traceability already are in place in many countries where seal hunting and trading takes place, implying the implementing rules could build on such existing elements.

In the context of the Regulation of trade in seal products these minimum requirements should be interpreted as follows:

Identification requirements

The identification requirements comprise in principal three elements:

- The hunter (either an Inuit / indigenous hunter or licensed hunter for resource management purposes) – having a unique identification number.
- The collecting station (designating the territory / geographical location)
- The product (essentially traces the transaction between the hunter and the collecting station).
- For the purpose of article 3.2b) it may be necessary to identify in addition or instead ‘the hunt’ in case it is not directly linked to the hunter, there is no collecting station or it does not cover the national level, but only specific regions.

Records and record keeping requirements

Record keeping requirements include the ability to produce on demand records that contain the identification of the product. This should contain proof that the hunter / product fulfill the conditions set in the Regulation. This record should be provided by the economic operator upon request. The way in which this is done could be left to the economic operator, or specified more clearly in the implementing rules.

Producing traceability reports

This is the most complicated part of the requirements, as it implies the development of some kind of form or communication that the exporter will send along with the actual product. This should be a standardized form per country, which includes the principles of identification and record keeping. This could take different forms, e.g. a self declaration, a declaration by a trade association or by a national or sub-national Government. It could also entail a certificate originating from a certification scheme.

Three alternative traceability systems

The study has identified three different options for a traceability system.

Option 1 Minimum requirements

The first option would involve the setting up of a system that covers the minimum requirements for traceability (i.e. for identification, record keeping and traceability reports) and leaves the implementation of the actual system behind this up to the economic operator. As such it provides the economic operators in the various countries – which differ strongly with regards the nature and scale of the hunt and trade in seal products – with the flexibility to opt for the most efficient system in light of their circumstances and existing systems.

In this system business, operators hold primary legal responsibility for ensuring the compliance with the Regulation. The penalties for infringement would be developed by the member states.

With respect to article 3.2b an agreement between the EU and the Government of the relevant country wishing to trade under this exemption should be signed, in which the parties accept that the hunt complies with the conditions of article 3.2b. Such an agreement would have to be renewed after review / consultations every 3-5 years. This would suffice for Sweden and Finland, which have no commercial sealing industry. For Norway and Canada such an agreement would have to indicate specific hunt (e.g. the regions or communities in which it takes place) and the maximum amount of product to be landed / bagged per hunter as well as traded (to ensure scale is non-commercial). This information should be added to the identification requirements and records.

After the implementing rules are put in place and all minimum requirements thus clearly stated and in place, the EU could work in a cooperative manner with the various affected countries so as to come to a feasible and cost effective approach to putting systems in place, which would be open to periodic checks so as to ensure credibility. In other words: no strong policing with heavy penalty system, but try to reach mutual recognition agreements (MRAs).

This option is as close to a no-policy option as possible and therefore will serve as the baseline for our impact assessment in the next chapter.

Option 2 Intermediate Option

The second option involves the formulation of the minimum requirements as in option 1, but includes a third party verification system, which comprises external compliance auditing by a designated third party.

The designated auditing body would perform regular audits and possibly on the spot checks (e.g. pre-shipment inspections). The agency would be funded by the EC. The main organisations to be audited will be the record keeping authorities, so as to establish whether information provided is accurate and traceable. Failure to pass an audit would result in suspension of access to the EU market until compliance has been achieved to the satisfaction of the auditors / Commission.

Option 2 thus adds administrative costs – relative to option 1 – mostly for the EU, as it will fund the auditing. In addition some additional compliance costs will have to be made by economic operators, while audits in themselves will require time inputs for economic operators, hence some costs.

The auditing system adds credibility and robustness to the traceability system in comparison to option 1.

Option 3: Full chain of custody traceability scheme

The third option would concern a mandatory full chain of custody (CoC) traceability system, based on the standards set by the EU (the minimum requirements) and third party *certification* and *accreditation* (cf. the MSC CoC traceability system).

This implies that all operators in the chain must be certified by third party accredited certification bodies, which in turn must be accredited. The standards as contained in the Regulation form the basis for certification requirements. Next to chain traceability, internal traceability will be required as well for processing

companies. The traceability system will cover the entire chain, up until the retailer, with a clear label for consumers to distinguish products and their origin

To ensure compliance with article 3.2b under option 3, additional identification and record keeping requirements apply. Next to the identification of the hunter and hunt (as required under options 1 and 2) transactions would also have to be identified, e.g. through a system of sales permits and recording of time, location and price of the sale, so as to ensure the non-profit / non-commercial nature of seal hunting and trading.

Option 3 will add substantial costs for all parties involved, but mainly for economic operators, in comparison to option 2 in order to obtain certification, permits, etc.. Compliance costs will also be higher, due to the need for internal traceability systems and high demands on record keeping.

The robustness and credibility of the system is further improved, while information and transparency for consumers is also high. The non-profit / non-commercial requirement under 3.2b is made more explicit and verifiable.

The robustness and credibility of the system is further improved, while information and transparency for consumers is also high.

IA and comparison of options

The impact assessment concerns the assessment of the implications of three selected policy options for traceability. Thus it focuses strictly on the implementing measures as related to the articles 3.1 and 3.2b and not on the impacts of the Regulation as such. The latter impact assessment has already been conducted in 2008 (COM(2008) 469 final; SEC(2008) 2290). The findings of this IA would remain valid for all non-exempted countries / regions / communities; in other words, in cases where the Regulation effectively functions as a ban.

As a number of issues with regard to the definitions of the various concepts in the Regulation and the interpretation of certain articles are not yet clear (they are still in the decision making process) we have made a number of assumptions on these issues.

- 1) Transit and processing: We assume that any *transit* through the EU territory which does not concern placing of the product on the market, i.e. making available for consumption against payment, will not fall under the Regulation. This entails principally auction houses serving as intermediary between non-EU sellers and non-EU buyers as well as transport of goods from one non-EU country to another non-EU country, where EU territory is passed. However, we assume that products *processed* within the EU territory, even if not intended to be finally consumed there, will fall under the Regulation and thus must comply with article 3.
- 2) Second placing on the market: We assume that once products are placed on the market for the first time, they will not be traced further within the EU.

- 3) Goods for personal use of traveler and their family: The goods will have to be accompanied by the travelers, with a maximum of two items per traveler. Otherwise the products must comply with article 3.1 or 3.2b), the burden of proof for which will lie with the traveler.
- 4) Non-profit and non-commercial: For the purpose of the assessment non-commercial is not defined in such a way as to preclude all placing on the market in exchange for payment, but defined as covering only costs, being non-systematic and of such a scale (e.g. number of seals per hunter or size of batches sold) that it is sufficiently likely that it does not concern a commercial, profit-making activity.² The conditions of non-profit and non-commercial are seen to apply to the hunt. As such it is sufficient to guarantee that the derogation will not lead to additional hunting for reasons of commercial gain. The hunter is merely compensated for costs and allowed a limited quota per year.

As we will illustrate, assumptions 2 and 3 have implications for a traceability system related to article 3.2b trade and we will therefore also consider a stricter interpretation of these two issues, where the non-profit / non-commercial requirement are retained throughout the chain.

- 5) Financial crisis: The current economic crisis has impacted the industry – as many other luxury goods industries – particularly hard. Thus demand, sales and prices have all seen sharp decreases since 2007 and the market has shrunk considerably. When assessing impacts of the Regulation this distorting factor is important to keep in mind. Based on stakeholder views, we assume that markets will improve as the economy recovers, however, they will not return to the same levels as in 2006 – a year generally considered as a boom year for the industry. In other words we assume that the ban will have a small negative impact on actual demand in the EU.

The assessment of the main potential socio-economic impacts of the options is discussed on a by-country basis, allowing for the main impacts given the specific context / circumstances of the country in question.

we expect some shifts of trade and activities related to the sealing industry to take place across countries.

It is likely that only Greenland will be able to make the investments needed to make use of exemptions, as the scale of the Canadian Inuit hunt is too small and not as centrally organised as that in Greenland (Canadian Inuit hunt essentially uses the sales and marketing chains of the commercial hunt, implying it would need to invest heavily in separating its Inuit product from the rest). For both buyers and producers alike the investments are not likely to outweigh the

² As non-commercial movement of specimens are considered movements between registered scientists, scientific institutions, for museum specimens or exchange of herbarium specimens, etc. (source: EC reg. 865/2006). According to Govt of Australia, non-commercial use are: research; education; exhibition; conservation breeding or propagation; household pets; personal items and travelling exhibition.

benefits due to the limited amount of product concerned. Moreover, the Greenlandic trade is more than enough to cover EU demand by itself. The more stringent the implementing rules (i.e. the traceability system) the more likely this would result in a diversion of all exempted trade to Greenland.

Secondly, we expect that the Regulation as such will result in a shift of trading and processing activities towards Canada/Norway and Asia, a shift contingent on the decisions with regard to the transit and processing questions, but also on the strictness of the traceability system and structural impacts of the ban on EU demand.

The table overleaf summarises the main expected impacts of each options, while indicating the main affected countries.

Summary table socio-economic impacts per option (option1 = baseline)

Indicator \ Impact	Overall direction and potential magnitude ^(A)		Likelihood of impact occurring ^(B)		Most affected countries / regions / communities
	2	3	2	3	
Economic impacts					
▪ Changes in amount of eligible product entering the EU market	▲	0	M	M	Canada (+/-), Greenland (+)
▪ Changes in trade flows, competitiveness and investments	↕	↕	M	H	Greenland (+), Canada (-); EU – Denmark (+/-), Germany (-) (depends also on transit and processing issues)
▪ Operating / administrative costs and conduct business / SMEs	0	▲	M	H	Canada, Sweden, Finland.
▪ Government budgetary consequences / administrative burden.	▲	▲	H	H	EU and institutions in exporting countries, especially for option 3.
▪ Consumer effects	↕	↕	M	H	(+) transparency for consumers; (-) availability of seal oil products; (+) low priced products
▪ Third country effects (adjustment and compliance costs, trade flows, investments)	0	▼	M	M	Canadian Inuit (-); Norwegian Saami (-); Sweden and Finland (lesser degree)
Social impacts					
▪ Income and employment effects in the EU	0	-	L	M	
▪ Income, employment and subsistence contributions for Inuit / indigenous communities	0 / +	0 / -	L	L	Canada & Greenland; dependent on other factors as well.
▪ Distribution / regional effects (employment, income)	-	-	L	L	Canada
Diversion effects					Dependent on:
Processing facilities from EU to non-EU	↕	↕	M	H	Treatment transit and processing in implementing measures
Replacement of commercial product by Inuit product	▲	+	M	L	Range of factors, compliance costs important contributor

Indicator	Impact	Overall direction and potential magnitude ^(A)		Likelihood of Impact occurring ^(B)		Most affected countries / regions / communities
Development of Sustainable Marine Resources Management system		+	0	L	L	Canada, possibly UK (Norway already has, question whether eligible)

(A) Symbols used

0	insignificant impact compared with the base situation
+	positive, less significant impact
-	negative, less significant impact
▲	positive, greater significant impact
▼	negative, greater significant impact. Merits serious consideration for mitigation
↕	positive and negative impacts likely to be experienced according to context
?	net effect uncertain

(B) Symbols used

L	Low likelihood
M	Medium likelihood
H	High likelihood

Conclusions and Recommendations

The issue of the non-commercial and non-profit interpretation

For the purpose of a traceability system, the definition and interpretation of the non-profit and non-commercial clauses for trade eligible under article 3.2.b are crucial. In our view, and in order to retain a system that is manageable, it would make sense to place this requirement at the source, i.e. the hunt. The reason being that ensuring the hunt itself is non-profit (only costs are reimbursed) and non-commercial (a limited number of seals per person) would ensure there are no incentives to increase the number of seals hunted beyond what is scientifically determined. At the same time, maintaining a system of payment ensures that seal by-product is not discarded altogether. Finally, if seal product eligible under article 3.2b) is sold beyond local markets at below market prices, this would create a conflict with Inuit/indigenous product traded under article 3.1, which does not have to be non-profit and non-commercially based (although the subsistence argument precludes a true commercial trade). Such a dual approach to the same products should be avoided.

The issue of non-profit / non-commercial is also important with respect to traceability, because in case the requirement of non-profit and non-commercial is maintained throughout the chain, a more strict system would need to be put in place, as origin alone would not ensure compliance with the Regulation. Rather at every point in the chain, it must be certified that the transaction was non-profit / non-commercial. This would also require a lot of paperwork in terms of records to back up these claims, which would contain all cost items for the product. A full CoC traceability system would seem more effective in this case than a more flexible approach (options 1 and 2).

It is recommended that such a system would *only* be considered if the amount of product likely to fall under 3.2b) exceeds a certain threshold, i.e. if for instance Norway and Canada both try to claim eligibility under this article, adding a substantial amount of product to the market.

One system for all exemptions	Even in such cases it is recommended to maintain <i>one system</i> for all exemptions, but to adjust identification and record keeping requirements, e.g. including additional requirements with regards to identification of the hunt as such for exemptions sought under article 3.2b. This should be based on an agreement between the EU and the country concerned, which confirms acceptance of the hunt in said countries as complying with 3.2b conditions and possibly with specifications of maximum number of seal product.
Balance costs of implementation traceability system with size of EU trade in seal products	Given the small scale and value of the EU trade in seal products - even in a good year (i.e. 2006) the value of e.g. Canadian exports to the EU was less than 5 million EUR - it is important to strive for a balance between the size of the trade and the investment and compliance costs of a traceability system. Although, the overriding issue is to provide confidence to the European consumers, the price of doing so needs to be in proportion to the size of the problem.
Recommended traceability system: Option 2	Based on our analysis of affected communities, products and trade flows, potential traceability options and their impacts, we recommend the Commission consider a system built on minimum requirements with flexibility for the economic operator on how to implement the system, but including external third party verification to enhance credibility of the system. The effectiveness of such a system is considered good, while it is more efficient than a full CoC traceability system.
Agreements with trade partners	We also recommend the Commission come to agreements with respective countries on implementing measures, looking at possibilities for mutual recognition. Even opting for a full CoC traceability system, the Commission could leave some flexibility by allowing countries to organise their own certification, which could then be accepted through a MRA if considered compliant with the Regulation.

1 Introduction

1.1 Assignment

Terms of Reference This study on "Implementing measures for trade in seal products" takes its starting point in the Terms of Reference (ToR) produced by DG ENV, dated 19 June 2009.

COWI proposal In response to this request for services, COWI submitted a proposal in July 2009. COWI was subsequently selected to carry out the study, and a kick-off meeting with DG ENV was held in Brussels, July 30 2009.

The draft final report was submitted December 7 2009 to the Commission, DG Environment, for comments. The deadline for submission of the final report was January 28, 2010.

1.2 Background

The Regulation concerning trade in seals products The Regulation on the trade in seal products (Regulation (EC) No 1007/2009 of the European Parliament and of the Council)³, laying down the future conditions for placing seal products on the EU market, was adopted on September 16 2009 and published in the Official Journal of the EU October 31 2009. The Regulation was introduced in order to avoid an increase in dissimilar national legislation in the EU Member States. Some Member States had already introduced legislation related to this politically sensitive issue, which has been discussed extensively in both the general public and at national government level.

The need for the study as input to defining implementing rules Following the adoption of the Regulation, there is need to gain more knowledge of factors relevant for trade in seal products, including knowledge of seal hunting communities, seal products and the necessary measures to apply the conditions of the Regulation. This study on implementing measures for trade in seal products provides input to the Commission's process of developing implementing measures for the Regulation. Therefore, the results of this present study are providing input to the development of a suitable traceability scheme that can ensure that the conditions stipulated in the Regulation are met while defining the implementing rules.

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:286:0036:0039:EN:PDF>

1.3 Objectives of study

Purpose of the study

The overall purpose of the study is to provide the Commission with additional information in order to draft implementing measures in terms of traceability schemes in accordance with the Regulation on trade in seal products.

Sealing occurs mainly in the following countries: Greenland, Canada, Russia, Namibia, Norway, Finland, Sweden and Alaska. Also in the United Kingdom seals are being killed, for protection of fisheries and the hunt is not as such regulated.

Specifically, the study will - through a combination of desk research and stakeholder consultation:

6. Provide an in-depth analysis of existing traceability systems concerning seal products in the sealing countries
7. Identify the main seal hunting communities falling under Article 3.1 and Article 3.2 (b) across the sealing countries
8. Provide a detailed list of seal products and products that generally contain or may contain components derived from seals, which are currently on the market or are likely to be marketed in the foreseeable future and identify how these products are currently labelled or marked
9. Look into 'best practice' in other sectors concerning traceability systems in order to screen for valuable lesson learnt
10. Provide recommendations for options for a suitable traceability system for seals products in response to the requirements of the regulation, including requirements concerning the type of information that need to be provided, e.g. place of origin.

1.4 Linking the assignment and the Regulation concerning trade in seal products

Study framework - implementing measures and Article 3

The study elements mentioned in the previous section which need to be covered in the study, are in particular linked to Article 3 of the Regulation concerning trade in seal products. This article stipulates the conditions for placing seal products on the market (see the below text box). Consequently, implementing measures and options for a suitable traceability system have to be defined pursuant to this article.

This means that especially Article 3 but also Article 2.2 (definition of seal products) set the framework for the implementing measures/traceability systems and thereby also the framework for this study.

Compliance with Article 3

The development of a traceability system with the ability to enforce Art 3.1 of the Regulation implies that the study team *identifies* the Inuit and other indigenous communities which are traditionally dependent on subsistence hunting of

seals. This will not only require the identification of these communities but also the development of a *measurable definition* of "seal hunting contributing to subsistence". Art 3.2 (a) also calls for a *definition* of "goods for personal use of travellers and their families".

In relation to Art 3.2 (b), the study should identify countries and/or regions where seal products are regulated by national law and where seal hunting takes place for the sole purpose of sustainable marine management. Seal products placed on market in this context are only permitted on a non-profit basis. This also implies that the study *defines* "placed on the market on a non-profit basis" in a measurable way.

Finally, the development of a suitable traceability system will require a *clearly defined and detailed* list of seal products or products derived from seals, in accordance with Art 3.3. This list of products will form the basis for the traceability system. The definition of seal products is given in Art 2.2 of the Regulation.

Text box 1 Conditions for placing seal products on the market

Article 3 of COM (2008) 0469 - C6-0295/2008 - 2008/0160 (COD)

Conditions for placing seal products on the market

- 1 The placing on the market of seal products shall be allowed only where the seal products result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence. These conditions shall apply at the time or point of import for imported products.
- 2 By way of derogation from paragraph 1:
 - 1 (a) The import of seal products shall also be allowed where it is of an occasional nature and consists exclusively of goods for the personal use of the travellers or their families. The nature and quantity of such goods may not be such as to indicate that they are being imported for commercial reasons;
 - (b) The placing on the market shall also be allowed for seal products that result from by-products of hunting that is regulated under national law and conducted for the sole purpose of sustainable management of marine resources. Such placing on the market shall only be allowed on a non-profit basis. The nature and quantity of such products shall not be such as to indicate that they are being placed on the market for commercial reasons.

The application of this paragraph shall not undermine the achievement of the objectives of this Regulation.
- 3 The Commission shall, in accordance with the procedure referred to in Article 9 (2), issue technical guidance notes setting out an indicative list of the codes of the Combined Nomenclature which may cover seal products subject to this Article.

Clear and measurable definitions of the key elements related to the conditions for placing seal products on the market are necessary to establish a well-functioning traceability system which is capable of enforcing the Regulation on trade in seal products.

1.5 Timing of implementation of the Regulation

The following table provides an overview of the main milestones towards implementation of the Regulation:

Milestone	Explanation
31 October 2009: Publication in the Official Journal	From the publication date the Commission has nine months (plus 20 days) to develop the implementing measures and have them adopted
18 November 2009: Stakeholder meeting, Brussels	<p>A hearing of European-level stakeholder organisations on the future possible implementing measures.</p> <p>A Consultation document was prepared for the stakeholders, explaining the issue and presenting the main study findings so far.</p> <p>The stakeholder consultation document, as well as the interventions by the participants, is published on the EUROPA website of the Commission. The consultation document was transmitted to the participants on 6 November 2009.</p>
21 January 2010	A Committee meeting is scheduled for 21 January 2010 to present first ideas for discussion with Member States. .
20 August 2010 (9 Months & 20 days from OJ announcement)	Final implementing measures and adoption

2 Study approach and methodology

This section introduces the approach that the Consultant has taken to the study by presenting the study process and the methodology used for each step in the process.

The limitations of this study are moreover described as this must be taken into account when using this report.

2.1 Study process

The study consisted of the following five tasks and phases.

- Task 1: Desk study (interim phase)
- Task 2: Stakeholder consultations (interim phase)
- Task 3: Initial assessment of traceability schemes (interim phase)
- Task 4: Expert workshop and stakeholder meeting (draft final phase)
- Task 5: Identification and assessment of different options of implementing measures (draft final phase).

The study process involved the following key milestones listed in the table below.

Table 2-1 Milestones and proposed time schedule

Milestone	Deliverables	Date
Kick-off meeting		27 July 2009
Inception report	Draft inception report	31 August 2009
Interim report	Draft interim report	3 November 2009
Draft final report	Draft final report	7 December 2009
Final report	Final report	28 January 2010

2.2 Methodology

The methodology consisted of four key elements – developing working definitions, data collection, formulation of options and the impact assessment. Below each of these key elements are described more in detail.

2.2.1 Working definition

Framework for assessment

Working definitions were developed and agreed upon with the Commission in order to create a framework for assessing alternative traceability systems for seal products and to create clarity about how the Regulation has been interpreted during the study.

In order to ensure a common understanding of the key terms of the Regulation and possible interpretations of these terms, the team prepared working definitions of the terms listed below based on the Regulation, literature research and knowledge of the COWI legal experts:

- Inuit
- Indigenous people
- Hunts traditionally conducted
- Seal hunting contribution to subsistence
- Sustainable management of resources
- Non profit
- Personal use
- Import and transit
-

It should be noted that the definitions below are to be regarded as working definitions only and have as such served as a reference for discussion with stakeholders. The final definition of the key terms of the Regulation will be determined by the Commission Services in the final phase of defining the implementing rules. The working definitions therefore serve the purpose of providing a first screening or scoping of the study with respect to identifying communities likely to qualify under Article 3.

It is moreover important to emphasise that the working definitions should be pragmatic and applicable in tracing the products concerned.

1: Inuit

The understanding of the definitions of "Inuit" and "indigenous peoples" is of importance for the application of the Regulation, as Article 3 indent. 1 allows for the exemption from a ban on placing on the market of seal products under the condition that the seal products result from hunts traditionally conducted by Inuit and other indigenous communities and contribute to their subsistence.

Article 2 indent 4 defines "Inuit" as " [...] indigenous members of the Inuit homeland, namely those arctic and subarctic areas where, presently or traditionally, Inuit have aboriginal rights and interests, recognised by Inuit as being members of their people and includes Inupiat, Yupik (Alaska), Inuit, Inuvialuit (Canada), Kalaallit (Greenland) and Yupik (Russia)".

2: Indigenous people

There is no clear definition of "indigenous peoples" in international law. The concept is reflected in the following sources:

Article 1 of the 1989 Convention concerning Indigenous and Tribal peoples (hereinafter, the Indigenous and Tribal Peoples Convention, 1989) refers to "indigenous peoples" as

"[...] Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions."

Furthermore, the Indigenous and Tribal Peoples Convention, 1989 lays down self-identification as indigenous or tribal as a fundamental criterion for determining the groups to which the provisions of the Convention apply.

A similar definition is provided by the United Nations Special Rapporteur to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Indigenous communities:

"Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing on those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal system".⁴

This historical continuity may consist of the continuation for an extended period reaching into the present of one or more of the following factors:

- Occupation of ancestral lands, or at least of part of them
- Common ancestry with the original occupants of these lands
- Culture in general, or in specific manifestations (such as religion, living under a tribal system, membership of an indigenous community, dress, means of livelihood, lifestyle, etc.)
- Language (whether used as the only language, as mother-tongue, as the habitual means of communication at home or in the family, or as the main, preferred, habitual, general or normal language)
- Residence on certain parts of the country, or in certain regions of the world
- Other relevant factors.

2

"On an individual basis, an indigenous person is one who belongs to these indigenous populations through self-identification as indigenous (group consciousness) and is recognized and accepted by these populations as one of its members (acceptance by the group)".⁵

The reference to "indigenous peoples" has been disputable. Some state governments oppose the use of the term "peoples" for indigenous peoples, but rather prefer the term "population" or "tribes". This is explained by the fact that the governments may fear its association with the right of secession and inde-

⁴ Martinez-Cobo, 1984

⁵ Ibid.

pendent statehood. On the other hand, indigenous peoples use the term "peoples" because of its association with inherent recognition of a distinct identity.

The definition of the "indigenous peoples" employs human rights and fundamental freedoms. Those are set out both in the Indigenous and Tribal Peoples Convention and the non-binding 2007 United Nations Declaration on the Rights of Indigenous Peoples. The rights of indigenous peoples comprise inter alia individual and collective rights as well as their rights to culture, identity, language, natural resources, employment, health, and other issues. The convention "prohibits discrimination against indigenous peoples", and it "promotes their full and effective participation in all matters that concern them and their right to remain distinct and to pursue their own visions of economic and social development".

Moreover, the International working group on indigenous affairs (IWGIA) emphasises that indigenous peoples have "distinct cultures and economies compared to those of the dominant society".⁶

The following characteristics are thus common to different sources referring to the concept of "indigenous peoples" and are highly relevant in the context of seal products:

- Distinct identity
- Historical continuity
- Basic rights (specifically the right to natural resources)
- Respect for the integrity and non-discrimination
- Non-dominant part of society.
-

Based on this, the working definition of "indigenous people" for the purpose of this study is "peoples having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, who are a non-dominant part of the society now prevailing and who consider themselves distinct from other sectors of the societies, or parts of them, and who retain some or all of their own social, economic, cultural and political institutions".

3: Hunts traditionally conducted

Hunts traditionally conducted is a notion that has been highly discussed during the preparation and negotiation of the Regulation. In particular, the precise meaning of this notion has been discussed, i.e. whether it concerns the hunting methods or if this notion rather concerns those communities where this specific type of hunt can be considered part of the cultural heritage of the given community and thus can be considered a traditional part of the society in question.

Article 3.1 states that placing on the market should be allowed "[...] where the seal products result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence. In the Preamble of the regulation it is stated that "[...] interests of Inuit communities traditionally engaged in the hunting of seals should not be adversely affected". Traditionally" is linked to the hunt conducted by certain - i.e. Inuit and other in-

⁶ <http://www.iwgia.org/sw641.asp>

indigenous - communities. There is no indication that the meaning of the sentence is hunts conducted traditionally, i.e. in a traditional manner. This thus indicates that the regulation specifies that it is the community that traditionally has conducted hunt; hence that in the community there is a tradition of hunt i.e. for hunting seals.

Therefore, in the context of this study the notion "hunts traditionally conducted" is interpreted as an indicator of time and the tradition of hunt in a specific community. A "community" is often defined as a group of interacting people living in a common location, hence a specific geographical area. Based on this and for the purpose of this study, hunts traditionally conducted are defined as hunts that are part of the cultural tradition of a given community located in a specific geographical area.

4: Seal hunting contributing to subsistence

Following from the Regulation a distinction should be drawn between hunt contributing to subsistence and other hunts. What constitutes subsistence hunt has been widely discussed. In order to make sure that the definition follows the intention of the Regulation and in order to secure that the definition is implementable, the consultant has taken a pragmatic approach building up the definition based on certain criteria.

The Regulation specifically mentions "hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence". For the purpose of this regulation hunt for subsistence should be defined in relation to Inuit and other indigenous communities where hunt has traditionally been conducted. Moreover, the preamble of the Regulation states that "The fundamental economic and social interests of Inuit communities traditionally engaged in the hunting of seals should not be adversely affected. Seal products deriving from traditional hunts traditionally conducted by Inuit communities and which contribute to their subsistence should therefore not be covered by the prohibitions provided for by this Regulation". This indicates that the intention of the regulation is to protect the given communities by avoiding negative impacts on the community, hence taking a broad interpretation of the term subsistence.

At the same time, the Regulation limits the exemptions to cover seal products deriving from hunts traditionally conducted by Inuit, or other indigenous, communities and which contribute to their subsistence. This means that the exemption is not a completely free pass to trade from these communities.

Another factor that should be noted in the formulation of the Regulation is the emphasis on communities. The hunt should thus contribute to the subsistence of a community, indicating that it is an important element of the welfare of the community, and as emphasised in the preamble of the regulation, both economic and social interests should be taken into consideration. This indicates that the hunt should be assessed at community level and not at individual level.

Based on this, certain criteria can be identified which a given society, be it indigenous or Inuit, must comply with in order for the hunt to be categorised as "hunt for subsistence".

For the purpose of this study, the following criteria must be met at community level in order for a hunt to qualify as hunt for subsistence under the Regulation:

- the hunt is not conducted for the sole purpose of placing on the market i.e. the motivation behind the hunt is not purely commercial
- part of consumption is on the local market i.e. the seal is not killed in order to export the products for a commercial profit
- contribute to the maintain the community economically or socially.
-

5: Sustainable management of resources

The sustainable approach focuses on the adoption of standards governing the rate of use or exploitation of specific natural resources. Particularly for marine living resources, a standard approach has emerged requiring exploitation to be conducted at levels which are "sustainable" of appropriate population policies, and a supportive and open international economic system.⁷ Commitments to limit catches or productivity to "maximum sustained" levels have been agreed for a number of marine species including Pacific fur seals.⁸ Some treaties (e.g. 1972 Antarctic Seals Convention) limit catches to "optimum sustainable yields" or subject them to "optimum utilization".⁹

In these cases "sustainable management of resources" seems to refer to "the adoption of standards governing the rate of use or exploitation of specific natural resources" in order to avoid over-exploitation of a specific resource.¹⁰

According to the Marine Strategy Framework Directive (2008/56/EC), Community marine strategies should apply an eco-system based approach to management of human activities "ensuring that the collective pressure of such activities is kept within levels compatible with the achievement of good environmental status and that the capacity of marine ecosystems to respond to human-induced changes is not compromised, while enabling the sustainable use of marine goods and services by present and future generations." (Art 1.3)¹¹

This means that sustainable management of marine resources, in this context, must be interpreted as being based on an eco-management principle. According to ICES, this involves "human activities based on the best available scientific knowledge about the ecosystem and its dynamics, in order to identify and take action on influences which are critical to the health of the marine ecosystems" (European Commission, DG ENV Unit D2 3 July 2009).

In some countries, seal hunting is being conducted mainly for fish stock management; in other words, in order to protect one species, the population of an-

⁷ Principles 5,7,8 and 12

⁸ 1976 Pacific Fur Seals Convention, Preamble and Articles II(1)(a), V(2)(d) and XI.

⁹ Sands, Philippe, Principles of International Environmental Law, second edition, Cambridge

¹⁰ Sands, Philippe, Principles of International Environmental Law, second edition, Cambridge

¹¹ Directive 2008/56/EC of the European Parliament and the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)

other (predatory) species needs to be reduced. In such cases, direct consumption is a secondary consideration, and the seal is thus a by-product of the sustainable management.

Moreover, the management of resources should be based on scientific knowledge, and there should be a specific rate of use. In the context of this Regulation this implies that there must be a scientifically determined maximum yield, hence a total allowable catch of seals as part of the sustainable management scheme, which is based on scientific research on population control and ecosystem (or biodiversity).

It should be noted that there is a need for further research concerning eco-management of marine resources and the interrelation between fish stock and the seal population and how the number of seal influence seal stocks. Seal-free zones have been discussed in limited geographic areas in order to protect fish stocks, but with varying results according to the Canadian seal management plan 2006-2010 (p.15/28).

6: Non-profit

The Regulation states that seal products placed on the market as a by-product of sustainable resources management of marine resources are allowed if sold on a non-profit basis. Furthermore, the Regulation emphasises that the placing on the market must not indicate that there is a commercial motive; hence this must be taken into consideration when assessing what constitutes a non-profit basis.

This suggests that the organisation of the hunt and the price of the product must be such as to indicate that there is non profit motive behind placing the product on the market.

7: Personal use

Article 3.2(a) allows for the import of seal products where it is of an occasional nature and consists exclusively of goods for the personal use of travellers or their families.

Thus, the Regulation lays down substantial criteria to determine whether the seal product is subject to the Article 3 indent 2(a) exemption: the nature of the import (commercial, non-commercial) and the quantity of the product. There is, however, no further guidance on how to apply those criteria.

CITES Guidelines¹² lay down the following criteria to define "personal and household effects":

- a) personally owned or possessed for non-commercial purposes
- b) legally-acquired
- c) at the time of import, export or re-export either:
 - i) worn, carried or included in personal baggage; or
 - ii) part of a household move.

¹² Conf. 13.7 (Rev. CoP14) Control of trade in personal and household effects "personal or household effects"

In addition to these criteria, as laid down in the Regulation, other criteria may be taken into consideration when determining whether the seal product is subject to an Article 3 derogation. One example is cultural implications. These differ univocally between e.g. the Greenlanders and the French. Another example is procedural criteria which imply the burden of proof in accordance with international conventions and principles governing the burden of proof.

In line with CITES Guidelines, "personal use" should be defined as *"an item personally owned or possessed for non-commercial purposes, legally-acquired and at the time of import, export or re-export either: worn, carried or included in personal baggage or part of a household move"*. This definition suggests that the goods are travelling with the traveller and would thus exclude Internet trade and delivery by post or courier services.

8: Import, transit and placing on the market

In the Regulation, import is defined as "any entry of goods into the customs territory of the Community" (Art 2.5). Further to this, placing on the market is defined as "introducing into the Community market, thereby making available to third parties, in exchange for payment".(Art 2.3)

It should be noticed that conditions for placing on the market introduced in Article 3.1 should apply at the time or point of import indicating that those products not complying with the conditions are not allowed into Community territory even though they are not placed on the market. This has broader consequences, and it is thus relevant to question what this entails e.g. in terms of transit and auctions or tanneries that do not place a good on the Community market.

Goods in transit, meaning seal products that are transported under customs supervision through the customs territory of the Community with a final destination in a third country, are not intended to be covered by the Regulation.

According to the Regulation, the ban will apply to all products and processed goods derived from seals, including their meat, oil, blubber, organs raw fur skins and fur skins and products made hereof.

Proposed working definitions - conclusion

On this background, we propose to use the following pragmatic working definitions in the framework of this study. The working definitions have been discussed with DG ENV.

Table 2-2 Working definitions for the purpose of this study

Term	Working definition
Inuit	Indigenous members of the Inuit homeland, namely those arctic and subarctic areas where, presently or traditionally, Inuit have aboriginal rights and interests, recognised by Inuit as being members of their people and includes Inupiat, Yupik (Alaska), Inuit, Inuvialuit (Canada), Kalaallit (Greenland) and Yupik (Russia)
Indigenous	Peoples having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, who are a non-dominant part of the society now prevailing and who consider themselves distinct from other sectors of the societies, or parts of them, and who retain some or all of their own so-

Term	Working definition
	cial, economic, cultural and political institutions
Seal hunting contributing to subsistence	The hunt is not conducted for the sole purpose of placing on the market (other reasons could be maintaining cultural tradition of hunting, or self consumption), part of consumption in on the local market; contribute to community subsystems, economically or socially. Furthermore, the hunt is not organised at large scale.
Non profit	Price less than or equal to cost recovery based on a bottom-up approach including direct as well as indirect costs
Personal use	"an item personally owned or possessed for non-commercial purposes, legally-acquired and at the time of import, export or re-export either: worn, carried or included in personal baggage or part of a household move
Import	Any entry of goods into the customs territory of the Community
Placing on the market	Introducing goods onto the Community market, thereby making them available to third parties, in exchange for payment
Transit	Products which are not placed on the market but are transported under customs supervision through the customs territory of the Community with a final destination in a third country.

2.2.2 Data collection

The data collection has consisted of two key elements – a desk study and stakeholder consultations. These two processes were held in parallel.

Desk study

The desk study consisted of a review of written data sources and thus handled a number of different information sources. The hierarchy of the sources ranges from solid sources adopted politically at national or international levels through formal studies, to information available on the Internet and written statements/position papers submitted by stakeholders involved. Sources used to provide these include:

- National management plans
- The regulatory framework - hereunder national legislation, the relevant Community aquis and international conventions
- Official statistics - from Eurostat as well as national sources
- Relevant EFSA materials and relevant EU studies
- Other materials received from the countries covered by the study
- Documents provided by the NGOs and other stakeholders
- Information available on relevant websites – hereunder producers of seal products or national authorities.

Stakeholder consultation

To supplement the written information reviewed during the desk study, a stakeholder consultation was launched. The stakeholder consultation was of a qualitative and assessment character where focus was on getting information on the stakeholders' views on the feasibility of different measures for implementing the Regulation as well as their perception of the rigidity of systems, economic interests affected by the implementing measures, costs and socio-economic consequences

Sources of information

Selection of stakeholders	<p>The identification of relevant stakeholder groups was made based on two key factors:</p> <ul style="list-style-type: none"> • Involvement in trade that is potentially affected by the Regulation. • Knowledge of existence of traceability systems. <p>These two selection criteria contribute towards securing that the stakeholder consultation includes stakeholders that can contribute with knowledge about how current systems operate. This approach contributed to ensure a proper supplement to the desk study and to provide qualitative data on stakeholder views on the impact of the different implementation alternatives. A list of the stakeholders consulted is included in Annex 1.</p>
Interviews	<p>The stakeholder consultation was mainly interview-based, and included both telephone and face-to-face interviews. Interviewees received an indicative list of issues prior to the interview.</p>
Site visits	<p>As part of the consultation process, two site visits were conducted to Canada (North-western Territories and/or Northern Quebec) and Greenland (Nuuk) respectively. These two countries were selected as they are the two countries with the highest annual catch of seals, and it was considered to be of particular relevance to have a broad stakeholder consultation from these countries with regard to the exemptions of the Regulation and the development of traceability options.</p> <p>The mission reports from the missions are enclosed in Annexes 2 and 3.</p>
Meetings	<p>The stakeholder consultation also included two meetings – one workshop with traceability experts and one meeting with stakeholders.</p> <p>The expert workshop aimed at generating a discussion with experts on existing traceability schemes and potential traceability schemes for trade in seal products. The experts were invited based on their knowledge of existing traceability systems and how to implement such systems. The expert workshop took place on 23 October 2009 in Brussels, and the list of experts participating in the workshop is available in Annex 1. The workshop report is enclosed in Annex 5.</p> <p>To the second meeting, no- governmental organisations were invited to discuss the preliminary findings of this study and to provide their point of view on the implementation of the Regulation. The stakeholders were invited based on their prior involvement in the seal-file and the effect that the Regulation would possibly have on their field of representation. The meeting took place on 18 November 2009 in Brussels, and the list of stakeholders participating in the meeting is available in Annex 1. The meeting report is enclosed in Annex 6.</p>

2.2.3 Formulation of options

In developing options for a traceability system we considered a number of existing systems, consulted with experts and key stakeholders to come up with various options with differing characteristics and likely impacts.

The key differentiating features between the selected three options are the level of strictness (or conversely flexibility) of the implementing rules, i.e. to which extent they prescribe not just 'what' needs to be done, but also specify 'how' this needs to be done by the economic operators.

Three options ranging from completely flexible to very strict ones were formulated, and the key features of these three options are described. It must be noted that we do not develop a baseline in the sense of there being a "no policy option" – as is customary in Impact Assessments. The reason is that the new Regulation requires a policy action by the EC – i.e. to implement some form of a traceability system. Hence, doing nothing is not an option. The IA guidelines refer to these types of initiatives as 'comitology items'¹³ As such, we define the minimum requirements option (Option 1) as being the 'least EU policy action'. Consequently, when assessing the two other options we do this in comparison with Option 1.

2.2.4 Impact Assessment (IA)

Given timeframe and information availability, the IA does not comprise a full IA according to the IA guidelines. However, these guidelines serve as the basis for our analysis. The IA is mostly of a qualitative nature; where possible we quantify effects.

We make a number of assumptions (if necessary) as to the interpretation of the Regulation (especially transit, processing and second placing on the market).

With regard to the IA focus on socio-economic impacts of the three options, where relevant (mostly in relation to article 3.2b), we indicate potential environmental impacts. Where relevant we also differentiate between possible implications of each option with respect to affected communities / hunters under article 3.1 and 3.2b respectively. It must be noted that the IA does not in principle measure the impact of the Regulation as such. In other words, the impacts on the communities and countries that do not qualify under one of the derogations (and thus are affected similarly, no matter what traceability system is put in place) are not explicitly considered, as the outcomes of the previous impact assessment are seen to continue to apply to these communities / countries.

¹³ According to the EC Impact Assessment Guidelines (2009), Comitology items are different executive initiatives defined by the procedure of adoption. IAs of such items should focus on the identification of the specific and operational objectives, linked to the objectives/requirements of the basic legislation and conduct a thorough assessment of impacts in relation to these specific and operational objectives, taking full account of relevance of technical detail.

The table below present the assessment indicators on which we have based our impact assessment. They contain economic and social impact indicators related to the trade, employment, income and distribution effects of the various options for the affected communities (i.e. those that would fall under one of the two derogations).

Table 2-3 Assessment indicators

Assessment criteria	Indicators
A. Economic impacts	<ul style="list-style-type: none"> • changes in amount of eligible products placed onto the EU market • changes in trade flows, competitiveness and investments • Operating / administrative costs and conduction of business / SMEs • Government budgetary consequences / administrative burden. • Consumer effects • Third country effects (adjustment and compliance costs, trade flows, investments)
B. Social impacts	<ul style="list-style-type: none"> • Income and employment effects in the EU • income, employment and subsistence contributions for Inuit / indigenous communities • Distribution / regional effects (employment, income)

Both direct and more indirect implications are considered, with a clear indication that indirect effects are harder to establish with certainty, as other factors may play a role as well. As it is likely to be difficult to provide hard figures and quantifications given the scope of the current study, we have chosen to provide an indication of the direction and expected magnitude of the effect, as well as the likelihood of the effect occurring.

The IA considers all affected areas in Alaska, Canada, Greenland, Namibia, Norway, Russia, and EU-27 – specifically Denmark, Germany, Finland, Sweden and UK.

The outcome of the assessment is summarised in an overview table per option, with 'scores' for each indicator. The scoring is done against option 1, serving as a baseline (see 2.2.3). An example of such a table is provided below.

Table 2-4 Summary table, socio-economic impacts per option

Impact Indicator	Overall direction and potential magnitude(A)		Likelihood of Impact occurring(B)		Most affected countries / regions / communities
Economic impacts	2	3	2	3	
• changes in amount of eligible products entering the EU market					
• changes in trade flows, competitiveness and investments					

Impact Indicator	Overall direction and potential magnitude(A)		Likelihood of Impact occurring(B)		Most affected countries / regions / communities
• Operating / administrative costs and conduction of business / SMEs					
• Government budgetary consequences / administrative burden.					
• Consumer effects					
• Third country effects (adjustment and compliance costs, trade flows, investments)					
Social impacts	2	3	2	3	
• Income and employment effects in the EU					
• income, employment and subsistence contributions for Inuit / indigenous communities					
• Distribution / regional effects (employment, income)					
Diversion effects	2	3	2	3	Dependent on:
Processing facilities from EU to non-EU					
Replacement of commercial product by Inuit product					
Development of Sustainable Marine Resources Management system					

Explanation:**(A) Symbols used;**

- 0 insignificant impact compared with the base situation
 + positive, less significant impact
 - negative, less significant impact
 ▲ positive, greater significant impact
 ▼ negative, greater significant impact. Merits serious consideration for mitigation
 ⇕ positive and negative impacts likely to be experienced according to context
 ? net effect uncertain

(B) Symbols used:

- L Low likelihood
 M Medium likelihood
 H High likelihood

2.2.5 Comparison of options

The specific objectives of the implementing rules – to be clearly distinguished from the objectives of the Regulation as such – and especially of a traceability system are to:

- ensure that all seal products entering the EU market / being placed on the EU market can be clearly identified by relevant authorities – especially customs
- ensure that all products entering the EU market / being placed on the EU market can be traced back to their origin
- credibly ensure that non-compliant products will not be placed on the market
- ensure that exemptions are meaningful, i.e. can actually be used by the targeted communities / individuals
- ensure transparency for consumer.

The criteria for comparing the three options should relate directly to these specific objectives of the implementing measures. In other words: which option achieves the objectives and does so with a minimum of undesirable side-effects¹⁴ (compliance costs, administrative burden, social impacts, etc.).

The main evaluation criteria thus include:

- **Effectiveness:** The extent to which the options achieve the objectives of the proposal
- **Efficiency:** The extent to which objectives of the implementing rules can be achieved with a given level of resources / at least costs (cost-effectiveness)
- **Coherence / consistency:** The extent to which the options are coherent with the overarching objectives of EU policy, and the extent to which options are likely to limit trade-offs across the economic, social, and environmental domains.

The table below elaborates on these criteria further for the purpose of this specific evaluation.

Table 2-5 Criteria for the evaluation of the three options

Evaluation criteria	Judgment criteria
Effectiveness	<ul style="list-style-type: none"> • Feasibility of enforcement (Number of parties / individuals required for enforcement, information availability)
	<ul style="list-style-type: none"> • Extent to which system supports the intent of the Regulation (e.g. Derogations are meaningful for exempted parties, burden on economic operators not involved in production / trade of seal products)
	<ul style="list-style-type: none"> • Extent to which system effective in ensuring non-compliant seal products do not end up on the EU market. (e.g. Risk and possibilities of fraud / circumvention)

¹⁴ See the Commission Impact Assessment Guidelines (2009)

Evaluation criteria	Judgment criteria
	<ul style="list-style-type: none"> • Transparency for consumer (e.g. Clear and traceable information provided for end-consumer)
Efficiency	<ul style="list-style-type: none"> • Ease of administration (e.g. number of institutions involved, number of documents required)
	<ul style="list-style-type: none"> • Cost efficiency (e.g. cost of implementing the system (development of forms, putting in place electronic systems, verification system, etc.), cost of running system vis-à-vis value of product concerned; '80/20 rule')
Consistency	<ul style="list-style-type: none"> • The extent to which options are likely to limit trade-offs across the economic, social, and environmental domains.

The comparison will be summarised and compared to Option 1 (serving as a baseline), differentiating between the two key sub-articles under article 3 of the Regulation.

Table 2-6 Comparison of three options*

Criterion	Option 1		Option 2		Option 3	
Effectiveness	3.1	3.2b	3.1	3.2b	3.1	3.2b
• Feasibility of enforcement						
• Extent to which system supports the intent of the Regulation with regards to derogations						
• Extent to which system effective in ensuring non-compliant seal products do not end up on the EU market.						
• Transparency for consumer						
Efficiency	3.1	3.2b	3.1	3.2b	3.1	3.2b
• Ease of administration						
• Cost efficiency						
Consistency	3.1	3.2b	3.1	3.2b	3.1	3.2b
• The extent to which options are likely to limit trade-offs across the economic, social, and environmental domains.						
Overall feasibility						

Note: 1 = best, 2 = second best; 3 = least best

2.3 Study limitations

The timeframe for the study has been short, given the limited implementation time given to the Commission in the Regulation. This entailed that much of the information used in the study, was retrieved from the stakeholders consulted or from official documentation, primarily legislation and management plans.

Moreover, the lack of solid quantitative data should also be kept in mind. Different sources indicate rather large discrepancies in numbers. The EU trade

codes mainly include raw products as well as products containing whitecoat pups of harp seal and blueback pups of hooded seals¹⁵. The study is therefore largely based on qualitative assessments.

Finally, there are still a number of outstanding issues concerning the interpretation of the Regulation itself. The study is therefore based on working definitions which have been discussed with both the Commission and stakeholders.

¹⁵ Following the Council Directive 83/129/EEC of 28 March 1983, trade codes were created for products from whitecoat pups of harp seals and pups of hooded seals (blue-backs). Eurostat keeps statistics for trade in whitecoats and bluebacks.

3 Identification of communities within the scope of the Regulation

The two key exemptions of the Regulation, 3.1 and 3.2.b have a different scope and also affect the seal hunting communities differently. Article 3.2.a involves a general rule for import for personal use and is therefore not assessed to have society-specific impacts to the same extent as the other two exceptions. This article is therefore not discussed in this section. This section reviews the two articles relative to the countries included in this study.

It should be noted though that this assessment is made based on the Consultant's working definitions and thus only represents a first screening of the scope of the Regulation. It is up to the Commission services to determine final definitions and interpretation of the Regulation.

3.1 Hunts traditionally conducted by Inuit or other indigenous communities for the purpose of subsistence

Article 3.1 states that "the placing on the market of seal products shall be allowed only where the seal products result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence.[...]." There are thus three requirements that must be fulfilled in order for products to be allowed into the EU under this article:

- the hunt must be traditionally conducted in the community
- the community where the product derives from must be Inuit or indigenous
- the hunt must contribute to the subsistence of the community.

It is thus a three-step procedure to qualify under this article. Based on the working definitions presented in section 2.2.1, the table below presents a three-step test.

Table 3-1 Methodology for applying 3.1 based on working definitions

	Are the requirements mentioned below fulfilled?	
STEP 1		
Inuit	Is it a community of indigenous members of the Inuit homeland – i.e. those arctic and subarctic areas where, presently or traditionally, Inuit have Aboriginal rights and interests – recognized by Inuit as being members of their people and includes Inupiat, Yupik (Alaska), Inuit, Inuvialuit (Canada), Kalaallit (Greenland) and Yupik (Russia)?	→NO
	OR	
Indigenous	Is it a community of peoples : <ul style="list-style-type: none"> - with a historical continuity with pre-colonial and pre-colonial societies that developed on its territory? - who is a non-dominant part of the society now prevailing? - who considers itself distinct from other sectors of the societies, or parts of them? - who retains some or all of its own social, economic, cultural and political institutions? 	→NO
	YES↓	
STEP 2		
Hunt traditionally conducted	<ul style="list-style-type: none"> - Has there been a tradition of seal hunting in the community in question and geographical region? - Is hunt of seals part of the cultural heritage of the community? 	→NO
	YES↓	
STEP 3		
Seal hunting contribution to subsistence	<ul style="list-style-type: none"> - Is the hunt not conducted for the sole purpose of placing on the market? - Are the seal products partly consumed on the local market? - Is the hunt contributing to community subsistence, economically and/or socially? - Can the hunt be characterised as not being large-scale organised commercial hunting? 	→NO
	YES↓	
STEP 4	Seal products of the community are likely to be eligible for import into the EU under article 3.1 of the regulation	

Based on this theoretic setup, each seal hunting community is analysed. If the community complies with the requirements above and can answer affirmative to the requirements in all three steps, it is an indication that seal products hunted within the community could be allowed into the EU market. If the community does not comply with all the requirements above, this indicates that seal products from that community are less likely to be eligible under article 3.1, given the working definitions.

With regard to Inuit and other indigenous circumpolar peoples and their homelands, the figure below provides an overview of the geographical spread of this population across Canada, Greenland, Scandinavia, the US and Russia. Other indigenous communities that hunt seals include the Saami population in northern Norway and Finland as well as the Kihnu community on the Estonian Kihnu Island¹⁶. These communities will not be analysed separately in this report.

¹⁶ The Kihnu are by UNESCO referred to as an indigenous community (<http://www.unesco.ee/kihnu.pdf>)

Figure 3-1 Inuit and circumpolar peoples



Source: <http://www.itk.ca/sites/default/files/5000YearHeritage.pdf>

Step 1: Inuit or indigenous hunt

Alaska

Alaska is home to three indigenous population groups: the Aleut, the Yupik and the Inupiat. Inuit heritage in Alaska (the US) is determined by bloodline.

In 2007, Alaska's population stood at 683,478 people. Approximately 15-16 per cent of this population is American Indian or Alaskan Native.¹⁷

Seal hunting still takes place on the Pribilofs – two small islands that are part of the Aleutian Islands, where fur seals whelp. The people living here are Aleut (*Unangan*), the indigenous inhabitants of the Aleutian Islands for thousands of years. Aleuts did not settle on the Pribilofs until the Russian Period in the 17th Century, when fur traders brought them to the Pribilofs to hunt furs.¹⁸

Seal hunting was a large commercial venture that was managed first by the Russians and later, after the sale of Alaska, by the Americans. For many years, it was even a Government run industry. The last commercial seal harvest took place in 1985. As the U.S. Congress refused to ratify the international fur-seal treaty¹⁹ in that year, sealing on the Pribilofs occurs now only on a subsistence basis. The harvest of as many as 1,600 animals, which is conducted on a volun-

¹⁷ <http://www.alaska.com/about/facts/faq/culture/story/1873.html>

¹⁸ www.stgeorgealaska.com/village.asp

¹⁹ The treaty allowed hunt of fur-seal, and as this treaty was not prolonged, hunting of fur-seal became illegal

tary basis by the tribal council, is monitored and supervised by federal officials and a voluntary humane observer.²⁰

Aleut are indigenous to the Aleutian Islands, and is thus likely to comply with the first out of the three steps identified.

Step 2: hunts traditionally conducted

The Aleut have traditionally hunted seals for thousands of years, although the communities on the Pribilofs were the result of forced migration of Aleut islands by the Russian fur traders in the 18th century.

This forced migration involved sealing communities from elsewhere, so while the location was not a traditional hunting ground for the Aleut, the hunt was part of their culture and community.

Step 3: subsistence

The current hunt in Alaska by Aleut takes place purely for subsistence, with most products consumed locally, or shipped to Aleut communities outside Alaska. It acts as a supplement to the Aleut diet²¹ and is still seen as contributing to social and cultural traditions.

Summary

The hunt and trading of seal products by indigenous communities in Alaska is likely to comply with article 3.1, as it is traditionally conducted in these communities and contributes to subsistence.

Canada

Seal hunting in Canada is divided into three main types: organised commercial seal hunting, personal use hunt, and traditional aboriginal/Inuit seal hunting (DFO, 2008b). For the purpose of Step 1 above, only the third category should be assessed, while in the first two cases, the (potential future) eligibility under article 3.2b should be tested. Also, the extent of participation of individuals or groups of Inuit in the commercial hunt should be considered.

The regions where the different types of hunt take place vary, as do the types of seals hunted.

Commercial hunt

For the commercial hunt, the Canadian Government operates an extensive licensing programme, which is guided by the Atlantic Seal Hunt Management Plan (2006-2010). It provides licences and sets quota (Total Allowable Catches or TACs) for specific seal species based on available information on the abundance of the species.

The organised commercial hunt takes place mainly on the East Coast (Atlantic Coast) in the Territories of Newfoundland, Labrador and Quebec. The commercial hunt focuses on harp and to a lesser extent hooded seals, and the main product obtained and traded is sealskins, although the market for seal oil from

²⁰ www.amiq.org/aleuts.html

²¹ In 1881, the average annual consumption of seal meat on the Pribilofs was 600 pounds per person. By 1981 this amount had dropped to approximately 284 pounds per Aleut. Today the figure has fallen to about 40 pounds per person (www.amiq.org/aleuts.html).

seal blubber is increasing, as a consequence of rising demand - in Asia in particular - for nutraceuticals based on this oil.

Eastern Canada has coastal fishing communities where seal hunt has taken place for centuries, with commercial sealing initiated by Europeans over 300 years ago. People living in isolated villages with a limited range of employment options earn a significant portion of their income from the sealing industry, in some cases, up to 35 per cent. Nevertheless, these communities are not made up of Inuit and cannot be considered indigenous according to the above working definitions.

The commercial hunt under the licensing programme of the Canadian government thus does not pass the test of Step 1, as it does not constitute hunt by Inuit or indigenous communities according to the working definitions; hence it is not likely to qualify under this Article.

Although there is Inuit presence in the regions where commercial sealing takes place, the Inuit – at community level – are not involved in the commercial hunt, and where there is a hunt conducted by them in a traditional way, the main reason for hunting is still subsistence, with substantial shares of the hunted animals being used for own consumption.

The licensing programme and TACs do not apply to the Aboriginal and non-Aboriginal coastal residents who reside north of 53°N latitude, and they can continue to hunt seals for subsistence purposes or as determined by specific treaty rights. This includes all main Inuit territories, as designated by the respective Land Claims Agreements (LCAs). However, to facilitate access to the commercial fishery, as an interim measure, the Canadian Government provided a one-year harp seal allocation of 6,000 seals in 2005 and 10,000 seals in 2006 for new Aboriginal initiatives. In Nunavut, the biggest independent Inuit territory, the Government has set up a support programme to facilitate access of Inuit products to the commercial market. This programme has only been moderately successful, for various reasons, and only a very small number of Inuit sealskins end up on the market. Although a small part of the commercial market, it is not considered part of the commercial hunting industry.

Personal use hunt

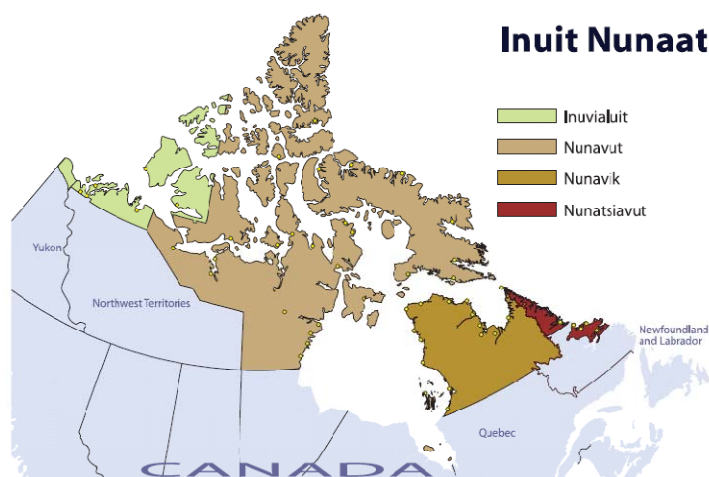
In addition to the commercial licences, since 1995, a policy change allows residents of areas adjacent to sealing areas throughout Newfoundland and Quebec to obtain a licence allowing the licence holder to hunt up to six seals annually for his own use. It is not clear to which extent by-products from this hunt end up on markets.

The commercial hunt and the personal use hunt do not seem to pass the Inuit or indigenous test, and it is thus unlikely that it will meet the first requirement of the three-step procedure elaborated above.

Step 1: Inuit or indigenous hunt

Of the 50,480 Inuit counted by the census in 2006, 39,475 or 78 per cent lived in Inuit Nunaat - the Inuit homeland, which is depicted in the figure below.

Figure 3-2 Inuit homeland, Canada



Source: www.itk.ca

Inuit are self-identified communities. There are four territories falling under Land Claim Agreements, and all beneficiaries to these agreements (enrolled with the respective Land Claims Agreement Corporations) are considered to be Inuit. Enrolment requires approval by the community.

Next to the Inuit, various other aboriginal communities can be distinguished in Canada, which are mostly organised in the First Nations. Most of these groups do not hunt seals as they live in the interiors. However, in some coastal communities hunt for subsistence takes place and some barter trade is also likely to take place. These groupings are recognised under the Inuit Land Claims Agreement.

All communities under the Land Claims Agreement would thus satisfy the requirement for this first step. The Inuit and aboriginal Communities of Canada can by definition, as stated in the Regulation, be considered likely to be eligible under article 3.1

Step 2: hunts traditionally conducted

Inuit and indigenous communities in Northern and North-Eastern Canada hunted seals for subsistence and as an essential part of their culture and economy for millennia and continue to do so.

This is thus a strong indication that they satisfy the step 2 of the above mentioned methodology for application of the Article 3.1.

Step 3: Subsistence

The main purpose of the Canadian Inuit and indigenous populations hunt is subsistence. Given the limited options for food supply and the seasonal variations in this supply, seal meat is a traditional staple component in the Inuit diet and Inuit continue to hunt predominantly ring seals for their meat and skins.

Some of the by-products from the hunt are sold to markets. This concerns mostly sealskin, as the meat is traditionally shared if not consumed wholly by the hunter, while the economic value of the blubber makes it uninteresting to market - it is bulky and therefore costly to transport, and there are no facilities to process the blubber (into seal oil) in the North. Clothing and e.g. Kamik (traditional sealskin boots) and gloves made of seal skin are still made by Inuit seamstresses.

Most stakeholders interviewed, supported by various documents, stress the contribution of the hunt to community subsistence, both economically and socially. Sharing of seal meat fosters relationships throughout the community, while the hunt is a means for learning across generations, not just about the hunt itself, but about the environment in which Inuit live and survive. Clothing made of sealskin is still regularly worn both for practical and cultural reasons. Finally, selling some of the sealskin to markets provides additional income for a population group that has an average income far below the Canadian average.

In Nunavut, the largest Inuit territory where approximately 50 per cent of all Canadian Inuit live, it is estimated that approximately 35,000 (predominantly ring) seals are hunted annually.²² Of these, an estimated 10,000 ring sealskins end up on the market²³ (although in recent years less). This amounts to approximately 1.5 seals hunted per person, and less than half a sealskin sold per person. Compared to the commercial hunt figures, which is estimated to employ 6,000 hunters from coastal communities and hunt up to approximately 330,000 (2006)²⁴ harp seals alone, these numbers are very small.

The hunt itself is still done mostly on an individual basis with hunters taking a few seals at a time. Several stakeholders argued that the North and North-Eastern hunt does not lend itself to commercialisation, as the seals are widely spread, and the harp and hooded seals are less prevalent and do not group together as they do along the Atlantic Coast (harp seals migrate South for whelping and do this in concentrated areas). This makes the hunt economically less interesting in the North.

Summary

The hunt and trading of seal products by Inuit communities in Canada is likely to be in line with all three above-mentioned steps as it is traditionally conducted in these communities and contributes to their subsistence.

Finland

The seal hunt in Finland is primarily recreational - having a strong traditional and cultural value (MMM, 2008). However, reducing the negative implication of seals on fisheries is also an important factor. Ringed seal and grey seal are

²² This excludes hunting loss, defined as the difference between the number of animals removed from the wild population as a result of hunting, and the number actually retrieved by the hunters. An adjustment of at least 10%-20% should be applied to ringed seal catch figures to account for hunting loss.

²³ Department of Environment, Government of Nunavut.

²⁴ www.dfo-mpo.gc.ca/fm-gp/seal-phoque/reports-rapports/mgtplan-plangest0610/mgtplan-plangest0610-eng.htm#re7

game species in the Baltic Sea region of Finland. However, only grey seal is hunted, while no licences are issued for ringed seal (Game Management District of Swedish Osterbithnia, 2008).

According to the Finnish Ministry of Agriculture and Forestry 800-1000 hunters of grey seals are licensed annually with a corresponding 400-500 grey seals hunted. The estimated population of grey seals in the Baltic Sea is approximately 30,000²⁵ and increasing by an estimated 7 per cent annually. About two thirds of the seal population are observed in Finnish waters.

The hunt of seals in Finland is subject to legislation of mainland Finland. However, the province of Åland has a separate legislation, and it is of the responsibility of the Government of Åland (MMM, 2007a). Both Baltic ringed seal and grey seals are considered game animals, but are also considered protected animals under section 2 in the Decree of Åland on Wildlife Management (1998) and section 15 of the Act of Åland Wildlife Management (1998) respectively (MMM, 2007a).

Step 1: Inuit or indigenous hunt

The Finnish Ministry also indicated that the Saami communities on Finnish territory do not hunt seal as it is the case for Saami communities in Norway. The Finland's Saami communities have their main focus on livelihood from the nomadic reindeer herding. On this basis, the Finnish seal hunting is unlikely to comply with the article 3.1 as Finnish seal hunt is not undertaken by indigenous communities.

Step 1: Inuit or indigenous hunt

Greenland

According to the Ministry of Fisheries, Hunt and Agriculture, about 90 per cent of the total population in Greenland is Inuit (Management and utilisation of seals in Greenland, 2009).

Hence, in the context of this Regulation, products hunted in Greenland seem to comply with the requirement of being hunted by Inuit communities.

Step 2: hunts traditionally conducted

Archaeological findings show that seal hunting has been an integral part of the Greenlandic societies since the first nomads came over from Canada (National Museum of Greenland and Management and Utilisation of seals in Greenland, 2009, p. 1).

Seal hunt has traditionally been and still is conducted from all settlements along the coast in Greenland throughout the year (interviews with ICC, KNAPK, Ministry of Fisheries Hunting and Agriculture, Greenland and Management and Utilisation of seals in Greenland, 2009, p. 1). Moreover, seal products such as blubber lamps and skin-covered tents are used for cultural events and for national dresses (Management and Utilisation of seals in Greenland").

²⁵ In the summer of 2008 22329 grey seals were counted, the real number is approximately 30% higher as only the heads are counted and seals spend time under water. (Swedish Association for Hunting and Wildlife Management)

This indicates that there is a long tradition for seal hunting in Greenland and that it has been part of the cultural heritage of the communities there; hence the hunt appears to be in accordance with the requirements in Step 2.

Step 3: subsistence

According to the Department of Fisheries, Hunting and Agriculture, seals are hunted for using the whole animal, including meat, skin, teeth and claws, and the hunter has the alternatives listed in the textbox below:

Text box 3-1 Use of seals in Greenland

The skin is:

- Sold to the local purchaser mainly contracted by Great Greenland

Sold to local seamstresses/local buyers making products for the tourist industry or private use

The teeth and claws are:

- Sold to local seamstresses/local buyers making products for the tourist industry or private use

The meat, blubber, and offal are:

- Sold at Brættet - the local town market for fish and meat from hunt
- Consumed by the hunter, his family or friends
- Sold to local restaurants, retirement homes, etc.
- Sold to Arctic Greenfood - through their purchase location for meat. Products from Arctic Greenfood is available in several supermarkets in the bigger towns in Greenland

From 2002 to 2005 full time hunters sold skins²⁶ for a total value of approximately EUR 34 million and part time hunters sold for EUR 5 million to the purchasers, (Rasmussen, 2005, p. 17). Great Greenland has a network of purchasers who buy the skins from the local hunters, and today Great Greenland contracts close to 100 per cent of the purchasers in Greenland²⁷. Part-time hunters are currently not allowed to sell sealskins to the purchasers of Great Greenland. Their skins are used by themselves or their families or sold locally²⁸.

Also, the teeth and claws are mainly sold locally. According to the Ministry, "claws and teeth are sold both from souvenir shops and from the workshops around the country and to a large extent from street traders and others who get an income that is not declared" (Memorandum, Ministry of Fisheries, Hunt and Agriculture, 10 December 2009). This does thus indicate that there is no industrialised production of products deriving from seal teeth and claws.

²⁶ Not limited to seal skin

²⁷ According to the Consultant's information there is currently only one other seal skin purchaser in Greenland, who is located in Upernavik and has a small share of the market.

²⁸ Interviews conducted in Nuuk, Greenland 30/09/09-02/10/09 with KNAPK, Great Greenland and Department of Fisheries, Hunting and Agriculture,

Concerning the meat, there is currently no export of the seal meat, blubber or offal. These parts of the seal are consumed locally and constitute, according to interviews, a means of supporting food supply²⁹. Moreover, seal meat is still essential fuel for sledge dogs (Management and Utilisation of seals in Greenland, 2009, p.4).

This indicates that the seals are not hunted for the sole purpose of placing the seal on the market, but are consumed and used in the local community and contribute to the local economy - formally or informally. When discussing the role of seal products and seal hunt for subsistence, and the degree to which it contributes economically and socially to the subsistence of the community, the specific character of the Greenlandic economy must be considered. Particularly concerning the meat, a large share is traded and exchanged outside the formal economy. The informal economy in Greenland was in 2005 calculated to be around EUR 24.5 million per year, of which some EUR 4.6 million stem from hunt of mammals and birds by full-time hunters. To this should be added the contribution of part-time hunters. Personal use and sales at Brættet (local market place) are key contributors to the informal economy (Rasmussen, 2005, p.75).

Summary

As the requirements under all three steps appear to be met, seal products deriving from the hunt in Greenland are likely to comply with all the requirements contained in article 3.1 of the Regulation.

Step 1: Inuit or Indigenous hunt

Namibia

In Namibia, there are both commercial seal hunt, or harvest as it is referred to in Namibian legislation, and trophy hunt (EFSA 2007, p. 33). The hunt goes back to the nineteenth century, when the blubber and fur were used by European and American sealers (MFMR, 2004, p. 9).

Summary

Based on the current information, the hunt is not carried out by Inuit or other indigenous communities and does thus not comply with step 1 of the qualification methodology. It is thus not likely to be eligible under article 3.1.

Step 1: Inuit or indigenous hunt

Norway

Norway has three kinds of seal hunting: the commercial hunt in the West and East ice, the hunt of seal along the coast, and the hunt in Spitsbergen and Jan Mayen. Qualified hunters are allowed to take part in the different hunts on an equal basis, and there is no separate "indigenous hunt".

The Norwegian commercial seal hunt is restricted to harp and hooded seal and is traditionally undertaken at both the East and West Ice (MFCA, 2004, p. 35). It consists of a number of boats licensed by the Directorate of Fisheries. Until the beginning of the 1960s as many as 50 Norwegian vessels participated in the annual seal hunt in the West Ice. In the 2007 seal hunt, four vessels were given the right to participate in the West Ice and one vessel in the East Ice (Director-

²⁹ Interviews conducted in Nuuk, Greenland 29/09/09-02/10/09 with KNAPK, ICC and Department of Fisheries, Hunting and Agriculture, as well as interview with the Greenlandic representation to the EU 09/10/09

ate of Fisheries 2007 and MFCA, 2008). The hunters mainly come from communities in Northern Norway. These communities are not Inuit communities, and there is no information available to the Consultant indicating that the communities that take part in the commercial hunt in the West or East ice consider themselves indigenous communities. Hence, this hunt does not appear to fulfil the requirements of article 3.1 of the Regulation. In the coastal hunt from the Østfold in the Oslo Fjord along the coast to the most northern county of Finnmark, grey and harbour seals as well as ringed seal and harp seal are hunted. There are no Inuit communities along the Norwegian coast; hence the first requirement of step 1 does not seem to be fulfilled. However, the indigenous Saami population has long traditions in Norway, and the country has recognised the Saamis as an indigenous community in Norway under ILO convention article 169 (ratified June 20 1990). Along the coast of Norway, the Saami communities have long-standing traditions of seal hunting (MFCA, 2004, p. 35). Consequently, these specific communities in Norway would appear to fulfil the requirements of Step 1.

The seal hunt in Spitsbergen and Jan Mayen is conducted by a limited number of hunters and is regulated separately under the Ministry of Environment, which is responsible for management of game and fresh water fishing in Spitsbergen and Jan Mayen (Directorate of Fisheries, 2007f). To the knowledge of the Consultant, these communities do not define themselves as indigenous and thus do not appear to fulfil the requirements of Step 1.

Step 2: hunts traditionally conducted

In Norway, the Saami population traditionally lives in the area from the county of Hedmark and up to the Finnmark (Sametinget, Samenes historie). The Saamis may take part in the different types of hunt on an equal basis as all other citizens with the required qualifications.

Especially in the coastal regions, seal products have traditionally been and are still culturally important. Traditionally Saamis lived on agriculture and hunt, including sea and land-based hunting (Sametinget, Samenes historie). Seal is used for e.g. traditional clothing and handicrafts (Gunn-Britt Retter e-mail 06/10/09). Particularly for the coastal Saamis, marine resources have been and continue to be important.

There is also a large population of Saamis in Oslo. However, as this is outside the traditional geographical area of the Saami population, products hunted in this place would not be eligible under this article.

Step 3: subsistence

Agriculture and fisheries are the two traditional sectors of the coastal Saamis. The role of fisheries is strong and is recognised by particular regulation under Norwegian Law (Finnmarksloven). Hunting serves as a complementary income source for many Saamis (Nordic Saami Convention, draft from expert group August 26. 2005 p.127³⁰).

³⁰ http://www.regjeringen.no/Upload/AID/temadokumenter/sami/sami_samekonvensjon_norsk.pdf

	<p>We still need more information in order to assess the role of seal trade for the subsistence of the Saami community; however, we have no indication at this point that this involves large-scale trade for the sole purpose of placing seal products on the market.</p>
Summary	<p>Compliance with Step 3 is subject to some uncertainty rendering the assessment inconclusive. Consequently, it cannot be determined at this point whether products hunted in the Saami communities are likely to be allowed on the market pursuant to article 3.1. If so, it is likely to apply only to the coastal hunt.</p>
Step 1: Inuit or Indigenous hunt	<p>Russia</p> <p>In Russia, there are two kinds of hunt - traditional hunt by indigenous communities and the large-scale hunt. The latter does not fulfil the requirement of Step 1, which indicates that it would not be compliant with article 3.1</p> <p>According to RAIPON, the Russian Association of Indigenous Peoples of the North, there are several indigenous peoples in Russia, including Aleut, Alutor, Veps, Dolgan, Itelmen, Kamchadal, Kereki, Kety, Koryak, Kumandinc, Mansi, Nanaic, Nganasan, Negidalc, Nenets, Nivkhy, Oroki, Orochi, Saami, Selkup, Soiot, Tazy, Telengit, Teleut, Tofalar, Tubolar, Tuvin-Todjin, Udege, Ulchi, Khanty, Chelkanc, Chuvanc, Chukchi, Chulymc, Shorc, Evenk, Even, Enc, Eskimos and Ukagiry..</p> <p>The second-last – Eskimos – is considered to be closest to Inuit - the people descend from the original people of Eastern Canada and Greenland. Below, they will all be referred to as Inuit.</p> <p>As indigenous/Inuit people the requirement of step 1 is likely to be complied with.</p>
Step 2: hunt traditionally conducted	<p>Seals are hunted by Inuit in the five areas Kamchatka, Chukotka, Magadan, Jamal and in the Republic of Sakha (Jakutiya), but according to a representative of RAIPON, also the other indigenous communities have a tradition of seal hunting. As seal hunt is part of the Inuit culture in Greenland and Canada, it is likely to believe that it is also part of the cultural heritage of the Inuit of Russia.</p> <p>Based on this limited information, it is likely that the indigenous population complies with the requirements of step 2, however, the limits of the information available should be taken into consideration.</p>
Step 3: subsistence	<p>Russia accommodates a number of different seal hunts, and a significant part of the hunt is industrialized e.g. with the use of helicopters. This hunt is not likely to qualify as hunt for subsistence. However, based on our knowledge, the majority of seals that are hunted by Inuit or indigenous communities are not industrialized, but consist of small-scale hunts serving as input to the daily life of these communities, which indicates that step 3 is likely to be complied with for parts of the Russian hunt.</p>

Summary Based on the limited information available, it is likely that at least parts of the indigenous, hereunder Inuit hunt in Russia, fulfil the requirements stipulated in article 3.1 of the Regulation.

Sweden

In Sweden, seal hunt is on the one hand conducted by Saami communities and on the other hand by hunters or fishermen to reduce the negative implication of seals on fisheries. The responsible Swedish authority issues licences to private parties allowing them to hunt seals. There are three species of seals along the Swedish coast, the grey seal, the ringed seal, and the harbour seal. As mentioned above under 'Finland', the estimated population of grey seals in Swedish waters are around 10,000 and with an estimated annually growth of 7 per cent. The yearly overall quota is 200 grey seals, and last year the total hunt comprised some 100-115 seals.

**Step 1 and 2 eligible
- uncertainty of step
3**

As mentioned above, and as is also the case for Norway and Finland (see above), Saami communities also live and hunt seals in Sweden. For those communities, it is clear that they can be defined as indigenous communities (step 1) and that they have a tradition for seal hunting (step 2). Nevertheless, there is as is the case with Norway and Finland some doubt whether hunt by these communities is conducted for subsistence (step 3). However, we have no indication that the hunt is large-scale with the aim to place seal products on the market.

United Kingdom (Scotland)

There is no official seal hunt in the United Kingdom, but seals are killed in order to protect the fisheries industry.

**Step 1: Inuit or
indigenous hunt**

The Consultant has no indication that there are indigenous communities in the United Kingdom to which this Regulation would apply.

Summary

Hence, products from seals killed in the UK are likely not to comply with step one of the procedures presented above.

3.2 By-products of hunts for the sole purpose of sustainable resource management

This exemption states that "the placing on the market shall also be allowed for seal products that result from by-products of hunting that is regulated under national law and conducted for the sole purpose of sustainable management of marine resources. Such placing on the market shall only be allowed on a non-profit basis. The nature and quantity of such products shall not be such as to indicate that they are being placed on the market for commercial reasons."

The definitions presented above involve a three-step procedure. This is presented in the figure below.

Table 3-2 Methodology for application of article 3.2 based on working definitions

	Are the requirements mentioned below fulfilled?	
STEP 1		
Purpose of the hunt	Is the seal product to be placed on the market a by-product from hunt for sustainable resource management?	→No
	AND	
Rate of hunt	Is there a national TAC determined by the sealing country based on scientific population models?	→No
	YES↓	
STEP 2		
	Is the product placed on the market in an unsystematic manner and at a cost indicating a non-commercial motive?	→No
	YES↓	
STEP 3	Seal product is likely to be allowed under Article 3.2.b of the Regulation	

By-product of sustainable resource management

The first requirement of the Regulation prescribing that the seal product must be a by-product of a hunt regulated under national law for the sole purpose of sustainable management of marine resources, covers two aspects: the purpose must be for the management of marine resources and secondly, as stated in the working definitions, there should be standards governing the rate of use or exploitation of specific natural resources. Hence, for the purpose of this study this is interpreted to mean that there should be a scientifically determined national Total Allowable Catch (TAC).

This entails that the product sold must be a by-product and the only reason for killing the animal is for the management of marine resources. There must thus not be a commercial objective behind the killing of the seal. This is also clear from the second requirement, which is only relevant if the first requirements are fulfilled: the products may be sold on the EU market only on a non-profit basis.

The costs of sustainable management of marine resources

The costs of sustainable management of resources can be divided into a number of elements, as some costs occur at individual level (e.g. to the hunter) and other costs occur at regional or national levels.

The input to the table below is based on information derived from various sealing countries consulted during the study. The cost items are therefore of rather general nature for those countries conducting actually management plans, while the size of costs will vary from country to country. No attempts have been made to make an actual cost estimate, although examples are provided for some cost items based on information gathered during the current study. Rather the aim has been to identify the type of costs that can be allocated to the level of the individual hunter and other costs of sustainable management of marine resources occurring at regional or national levels, which nevertheless should be included if a true socio-economic calculation was to be made.

The table below therefore could be applied at a general level as a means to identifying specific cost elements related to estimating the costs of sustainable management of seal population

Table 3-3 Categories of costs

Cost item	Description
Costs to the hunter	<p><u>Costs includes:</u></p> <ul style="list-style-type: none"> • hunting license fee • purchase price and maintenance costs of rifle • purchase costs and maintenance costs of boat • gasoline • other equipment costs <p>As the hunter usually hunts other animals as well, only a share of the total costs should be included in the estimate of the costs for seal hunting. This share will obviously vary from hunter to hunter.</p>
Administrative costs of running hunting license scheme	This would usually be done by Hunting Associations on a voluntary basis or by the regional or national authorities
Training of hunters	Hunters usually need to pass an exam including sharp shooting test. Hunting associations conduct special seal hunting courses on a voluntary basis.
Costs of seal population counts	<p>Seal management plans require the relevant authorities to keep track of the seal populations on a regular (usually on a yearly) basis. This is usually done by the National Environmental Protection Agency or similar authority.</p> <p>The costs are relatively high as the seals often are scattered over a large geographical areas. The counting is either done from boats (e.g. Coastal Guards) or by means of pictures taken from airplane.</p>
R&D costs	<p>Funding devoted to research projects on sustainable management and the interaction of seals with the marine ecosystems.</p> <p>In Sweden, it is estimated that yearly research costs into seals amount to nearly EUR 1 million a year (this includes two research projects plus the costs to the Museum of Natural History to run the testing of the seal samples coming from the hunters including staff costs as well as laboratory costs to test samples of seal for heavy metals etc.</p>
Seal management plan	Includes administrative costs by the relevant authorities
Sealing infrastructure	Costs of running collecting stations. In Norway and Greenland for instance, governments carry the costs of running collecting stations.

In several countries where sealing is conducted for the sole purpose of sustainable management of marine resources, as in e.g. Sweden and Finland, the actual activity of killing seals is conducted by hunters on a voluntary basis. The cost of this activity is likely to be much higher if state-employed hunters were to do the job as salaries would need to be included as well. Depending on the development in future seal populations in various regions, a further need for population control might occur requiring a more formal system.

While sealing is a by-product of sustainable management of marine resources and when unpaid hunters conduct the hunt on a voluntary basis, the incentive to the hunter to collect the seal needs to be maintained one way or another. As it is now, the hunter can - if he so wishes - sell the seal to the local market and recover parts of his costs (in Sweden the market price is in the order of EUR 150). In the absence of a market, the government could offer to pay for receipt of seals and take the responsibility of destroying the body. Leaving the seal to rot in the water would be an undesirable option due to the contamination

risk and would conflict with the principle of sustainable use of natural resources.

Consequently, the 'non-profit notion of the Regulation under article 3.2b is very difficult to interpret as it does not provide guidance for the inclusion of costs items and their level. The by-product is easier to relate to and so the concept of a non-commercial motive.

More information on the sustainable management of marine resources in the countries included in this study is available in annex 4.

4 Facts on products, trade and markets

For the purpose of putting the 'legislation issue' into perspective, the following section provides an overview of the products covered by the Regulation, and trade and markets for seal products, followed by an overview of possible trade chain scenarios illustrating the complexities of the Regulation.

4.1 Products covered by the Regulation

According to Article 2.2, seal products mean all products, processed or unprocessed, derived or obtained from seals. In order to secure that no products derived from seals³¹ are placed on the market, knowledge about which products contain or may contain seal derivatives is necessary.

This includes products that contain or may contain the pinnipeds:

- Phocidae: earless seals, or true seals, hereunder, but not limited to harp, hooded, ringed, common and grey seals
- Otariidae: eared seals, which are commonly referred to as sea lions and fur seals, hereunder but not limited to the south African fur seal
- Odobenidae: walrus.

Potentially, a wide range of products could contain elements of pinnipeds. Based on current trade statistics and interviews with stakeholders the most common products containing or potentially containing seal products are:

- Hides, skins and furskins: Currently mainly imported to the EU for tanning or further processing. Thereafter exported. Only limited quantities end up on the EU market.
- Clothing and accessories: Mainly fur coats and vests are sold notably in Denmark and other Nordic Member States. Moreover, small fur products such as accessories, including gloves and belts as well as wallets, bags and purses. In Sweden and Finland, a project has been promoting the use of seal products, including broad categories of clothing and other products from the local hunts.

³¹ Except products allowed pursuant to Article 3.

- **Products containing Omega 3:** Seal oil contains the three most common Omega3 fat acids, DHA, EPA and DPA, and in theory, all products containing these acids may contain seal derivatives. However, in reality seal blubber is only exported on a limited scale and processed by a few producers in Canada and Norway. The use of the oil is thus limited, and the most common products containing seal oil are Omega3 capsules and pet food, however, this is also limited to a few brands. Seal oil is also to some extent used by the pharmaceutical industry.
- **Jewellery and handcrafts:** From the teeth of walrus and to a certain extent from bones of seals, jewellery and handcrafts are made. This includes inter alia earrings and necklaces and ornaments such as decorative figures.

Moreover, research is currently made to analyse the positive effects of seal products on health and how this can be used medically. This includes the use of seal derivatives (valves) in heart transplantations and use of seal oil in post operational treatment of certain patients with cardiovascular diseases.

Table 4-1 and Table 4-2 below present a list of products that contain and may contain products containing seal derivatives, listed according to the trade codes of the Nomenclature 2010 is included in Commission Regulation no. 948/2009 (O.J. L 287 of 31 October 2009).

The lists mainly concern products from seals; the Nomenclature does not distinguish between earless and eared seals, and hence seal products listed below include both the Phocidae and Otariidae families. Concerning Odobenidae, walrus, the only product listed is the teeth and in the Nomenclature these are included in the general category of ivory included in Table 4-2.

When reading the tables it should be considered that, on the one hand, there are products which clearly contain seal products, and where it is relatively easily identified or documented, including fur products as the seal fur is quite characteristic. On the other hand, there are products where seal derivatives are a component in a product or where the seal derivative is more difficult to identify. This includes i.e. products from seal blubber which is used to make seal oil. Moreover, it should be noted that seal products may also fall under a number of other trade categories not included in the two tables below. The lists below only include some of the categories that may be used and are thus not exhaustive.

Table 4-1 Key product categories for seal products

Trade code			Product group	Import to the EU 2008 ³² , EUR
4 digit	6 digit	8 digit		
0208			Other meat and edible meat offal, fresh, chilled or frozen:	28.846.688
		0208 90 55	Seal meat	23.791
4301			Raw furskins (including heads, tails, paws and other pieces or cuttings, suitable for furriers' use), other than raw hides and skins of heading 4101, 4102 or 4103:	216.017.452
		4301 80 70	furskins, whole, with or without head, tail or paws other than mink, lamb and fox, marmots and wild felines	37.269.796
4302			Tanned or dressed furskins (including heads, tails, paws and other pieces or cuttings), unassembled, or assembled (without the addition of other materials) other than those of heading 4303	51.456.156
		4302 19 41	Of whitecoat pups of harp seal or of pups of hooded seal (blue-backs)	4.375
		4302 19 49	Of other seals	818289
	4302 30		Whole skins and pieces or cuttings thereof, assembled:	3.893.394
		4302 30 10	Dropped furskins	211.366
		4302 30 51	Of whitecoat pups of harp seal or of pups of hooded seal (blue-backs)	0
		4302 30 55	Of other seals	290.725
4303			Articles of apparel, clothing accessories and other articles of fur skin:	9.780.482
	4303 10		Articles of apparel and clothing accessories:	8.545.191
		4303 10 10	Of furskins of whitecoat pups of harp seal or of pups of hooded seal (blue-backs)	327.022
		4303 10 90	Of other seals	8.218.169

Table 4-2 Selected product categories which may contain seal products

Trade code			Product group	Import to the EU 2008 ³³ , EUR
4 digit	6 digit	8 digit		
0208			Other meat and edible meat offal, fresh, chilled or frozen:	28.846.688
		0208 90 95	Other	2.876.817
0506			Bones, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised; powder and waste of these products	230.505
0507			Ivory ³⁴ , tortoiseshell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, unworked or simply prepared but not cut to shape; powder and waste of these products:	748.876
		0507 10 00	Ivory; ivory powder and waste	88.780

³² EU27 Trade since 1995 by CN8 (DS_016890), Import to the EU from Canada, Greenland, Finland, Namibia, Norway, Russia, Sweden and the UK. Extracted 13-01-2010

³³ EU27 Trade since 1995 by CN8 (DS_016890), Import to the EU from Canada, Greenland, Finland, Namibia, Norway, Russia, Sweden and the UK. Extracted 13-01-2010

³⁴ Throughout the nomenclature, elephant, hippopotamus, walrus, narwhal and wild boar tusks, rhinoceros horns and the teeth of all animals are regarded as 'ivory'; Nomenclature Chapter 5, Note 3

Trade code			Product group	Import to the EU 2008 ³³ , EUR
4 digit	6 digit	8 digit		
		0507 90 00	Other	660.096
(0510) ³⁵				
		0510 00 00	Ambergris, castoreum, civet and musk; cantharides; bile, whether or not dried; glands and other animal products used in the preparation of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved	1.373.634
1504			Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified:	114.705.02
	1504 30		Fats and oils and their fractions, of marine mammals:	717.462
		1504 30 10	Solid fractions	7.175
		1504 30 90	Other	710.287
1516			Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared:	104.989.372
1517			Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, other than edible fats or oils or their fractions of heading 1516:	164.430.163
	1518 00		Animal or vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included	45.640.546
7113			Articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal	222.014.465
7114			Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal	5.290.698
7117			Imitation jewellery	65.895.504
9601			Worked ivory, bone, tortoiseshell, horn, antlers, coral, mother-of-pearl and other animal carving material, and articles of these materials (including articles obtained by moulding):	1.579.881
		9601 10 00	Ivory (including teeth of marine animals); ivory powder and waste	594.760

4.2 Trade in seal products

The main sealing countries are Canada, Greenland and Namibia.

Before the financial crises and the 'ban', the total number of seals caught was in the order of 750 thousands. The large markets (particularly Russia, and to a lesser extent China and the Far East) have been hard hit by the financial crisis and as a consequence the demand for sealskin has suffered. At the same time, the current legislation has been in the pipeline and has created uncertainty about the EU market. Hence, trade numbers are down substantially since 2007 and so is the market price of raw skin (less than half). It is however difficult to get

³⁵ This category is not included in the nomenclature

access to accurate data on international trade in seal products as many countries do not have separate trade codes for products containing seal derivatives.

In Greenland, the export of sealskins (tanned and raw) decreased from 83,000 skins in 2006 to 34,000 skins in 2008. Catch levels also decreased, although to a lesser extent (Ministry of Fisheries, Hunting and Agriculture, E-mail 14-01-2010). In Greenland, the hunt of seals by professional full-time hunters is heavily subsidised through a purchasing agreement with the Great Greenland tanneries in order to sustain the profession (Ministry of Fisheries, Hunting and Agriculture and Great Greenland, interviews October 2009). The Great Greenland tannery, buying a substantial part of the raw skins, bought 112,000 skins in 2006 and 81,500 skins in 2008 (Ministry of Fisheries, Hunting and Agriculture, e-mail 14-01-2010).

The EU share

It is estimated that approximately 5 per cent of the global seal fur trade is actually 'consumed' in the EU, while a much larger part is passing through the EU either in transit, through auction houses, or for tanning purposes.

Size of Inuit hunt for trade purposes

Of interest in relation to the Regulation and article 3.1, is how much of this total trade is to be included in traceability schemes in order to qualify under article 3.1. In other words, how many of the skins are caught by Inuit or indigenous peoples and could be made available on the EU market in response to a demand?

While all of the Greenland harvest is likely to qualify under article 3.1, only approximately 3 per cent of total catch in Canada derives from Inuit hunt, e.g. in the order of 10,000 skins a year (based on a 'normal' year).

Table 4-3 Canadian and Greenland Inuit trade of seal products

Estimated Inuit/Ind skins (as part of total traded)	2006	2008	Comments
Greenland	83,000	34,000	<i>Stocks at Great Greenland are increasing as purchase level is higher than trade</i>
Canada Inuit/Indigenous	10,000	3,000	<i>This number could be higher as only based on one auction house</i>
Total Inuit/Indigenous	93.000	37.000	

Source: Greenland: Ministry of Fisheries, Hunting and Agriculture, E-mail 14-01-2010; Canada: Nunavut Government

The trade and value chain - seal skin

In order to unfold the complexity of the trade routes of importance for defining feasible traceability schemes, it is important to understand the trade value chain. The following is not necessarily a complete picture but rather a schematic mapping to exemplify the trading patterns and the actors involved in trade from Greenland, Norway and Canada.

Figure 4-1 Example of trade chain for seal products³⁶

Commercial purchasers buy up the skins as hunters deliver the hunted seal to the receiving stations. Greenland has 40 such receiving stations. Norway has one in Tromsø. The main harvest places in Canada are in Newfoundland and Labrador.

The price of the raw skin is usually determined by world trade prices. In the case of Greenland and Norway, hunt is subsidised, while in Canada the support programme for the Nunavut hunters also constitutes a subsidy.

The purchaser either sends the skins directly to Tannery for further processing or collects the skin into lots which are traded at auction houses (a few times a year).

Example Great Greenland

Some companies, such as Great Greenland (100% owned by the Greenland government) have interests in many parts of the trading chain. They run the receiving stations, the GG Tannery and operate manufacturing, design and marketing facilities in Greenland. The North Atlantic Fur Group (NAFG) trades all sealskins from Great Greenland.

Example Rieber

GC Rieber buys the seal (including blubber) from harvest stations in Newfoundland, it is then sent to Rieber's own production facilities in Newfoundland where the skins are tanned and dressed, and the blubber is turned into crude oil. Some skins are also bought from Norwegian harvest and shipped to Canada for tanning and dressing. From Canada the tanned skin are shipped to its final customer (China, Far East, Russia) via logistics hubs in Helsinki, Frankfurt or Estonia. Rieber Skinn AS in Norway only acts as a sales and marketing agent.

³⁶ Although Russia and Namibia have large-scale organised hunts for trading purposes these are not included in the table as we lack accurate information about the trade chains in these two countries.

Example Canadian trader

TaMaSu Inc. is the biggest player in the Canadian market, probably making it one of the biggest global players, as the Canadian industry is estimated to have a global market share of 75 per cent (interview TaMaSu, 2009). The company purchases sealskins and blubber from Seal harvesting stations on the Îles de la Madeleine in Quebec. The company is located on the same island. After a first processing, the pelts are sent to Germany for dressing and tanning and the blubber is processed into oil, which is then sold on to nutraceutical companies for further processing into nutritional supplements. Some of the pelts also go through Copenhagen Fur Auction, but most products are sold directly through dealers and retailers. Buyers of furs are mostly Eastern European and Asian, while the oil ends up mostly on Canadian and Asian markets. It is not clear how much of the end-products from the seal oil (nutritional supplements) eventually find their way to EU markets.

In recent years, TaMaSu has also been working together with a Greek heart surgeon in exploring the possibilities for using seal heart valves in heart surgery for humans. However, currently no products are sold.

Auction Houses

The main auction houses trading seal skins are Copenhagen Fur (although in the recent year there has hardly been any trade in seal) and Canadian auction houses (North Bay Fur harvesters and North American Fur Auction). The auctions constitute a global market place where bidders from all over the world gather to trade a few times a year. The skins are sold in 'lots' according to type, quality, raw as well as tanned, etc. The auction house takes a certain percentage fee for each skin traded from the hunter and a fee from the buyer; in the order of 8-10 per cent in total of the trading price.

The study has not been able to determine the quantity of skins sold through auction houses and quantity sold directly from 'purchaser' to final customer.

The tanneries are either 'part of a bigger business' such as Great Greenland or operate as an 'independent entity' where skins are tanned and dressed on a fee basis. The fee is in the order of EUR 15-25 per skin, and varies from tannery to tannery. For such tanneries, treatment of seal is often a minor part of the business although the seal business is important in terms of timing as many other tanning processes are seasonal. Processing of sealskin therefore makes it possible to maintain year-round operations.

The business of seal oil

Blubber is a by-product of sealing and accounts for about 45 per cent of the total weight of the seal.

The refinery process is rather advanced and accounts for approximately 80-90 per cent of the economic value of the final product. The refined seal oil is very pure (colourless transparent liquid with hardly any taste of fish) and completely cleaned for any heavy metals through an advanced distillery process.

Blubber from seals in Greenland is more difficult to collect - as the hunting is spread around the year and as to the logistics poses a substantial challenge in Greenland. It is very important that the blubber is handled while fresh and this is difficult in Greenland for logistic reasons.

Both the crude oil and final oil derived from seal is about double price of 'comparable' fish oils. Therefore, there is hardly a risk of any economic incentive to mix seal oil with other marine oils from a cost savings point of view.

The refined oil is sold on to intermediate companies, such as health companies and pharmaceutical companies, and sold as dietary supplement and food ingredient (functional food in South Korea). Main markets are Norway, South Korea, and emerging markets include China and Japan.

Some European countries, Sweden, Denmark, Finland, and Germany, were emerging markets but have halted in recent years due to the development of the EU Regulation on trade in seal products.

The global production of seal oil is very marginal compared to fish oil - less than 1-2 per cent. Rieber estimates the global production of seal oil to be in the order of 2000-3000 tons a year. Apart from GC Rieber, there are a few Canadian seal oil manufacturers (Atlantic Marine Products, TAMASU and OCI).

Seal oil is very healthy; healthier than other fish oils due its high content of the essential fatty acid DPA. There are proven scientific evidence on its positive effect on cholesterol, and blood thinning effects.

4.3 Trade chain scenarios

We have compiled the following trading chain scenarios as examples of likely challenges to the regulation and in particular to the definition of the implementing rules. The idea of the trading chain scenarios is thus to use them to check how possible traceability schemes would and could work. The scenarios listed below are 'real case examples' collected during the stakeholder consultations and are to a high degree characterised as 'border' cases.

	Trade Scenario	Traceability scheme challenges	Implications
1	A German tannery receives third party sealskins to be tanned and dressed. The tannery receives a payment to undertake this value adding activity. The ownership of the skins, however, stays with the third party and the skins are thereafter exported to its final buyer outside the EU.	Transit Although the skins are treated on EU soils - they are not to be placed on the EU market. Is this to be regarded as transit?	Socio-economic impacts: The German tannery also processes other type of skins, but if the tanning of sealskin will fall away, approximately half of the staff (currently 30) will be laid off.
2	Fortuna Oils(NO) (owned by GC Rieber, NO) buys the raw skin with the blubber from a harvest station in Newfoundland. The blubber is turned into crude oil and shipped off to Kristiansund (NO) to be refined into high quality seal oil. The oil is then sold on to intermediate companies (health product companies, pharmaceutical companies) and exported outside the EU	No direct challenges if Norway is not included in the Regulation	The implications depend on whether Norway (as EEA) member is included in the Regulation
3	Fortuna Oil is currently not utilising crude oil from other sources than the Newfoundland purchases. However, due to the regulation and due to an increased market interest for seal oil (for nutrient reasons) they would consider to use blubber from 'legal' seals, e.g., Greenland although the collection and transport of the seal blubber might turn out to be not	Traceability Oil For obviously reasons you cannot attach a stamp or bar code to 'crude oil'. Traceability, however, can be done in terms of production batches. What would be the	

	Trade Scenario	Traceability scheme challenges	Implications
	financial feasible.	traceability requirements in terms of certification, labelling, trading codes, enforcement?	
4	Local hunters or fishermen on the Swedish west coast kills x number of seals every year to balance the local ecosystem in accordance with the local 'regulator'. The hunters/fishermen give the bodies to a local restaurant (in return for a free meal). The restaurant offers 'fresh local seal meat' on the menu at a price similar to other special dishes	Non profit How to prove that the seal meat is from the local hunter/fisherman if it is handed over freely (no receipts).	This is likely to be a very marginal problem, as seal meat sold in EU restaurants is likely to be small
5	EU based Margarine manufacturer X produces 'margarine with Omega3 content' that might or might not contain Omega3 derived from seals (speculative example)	Traceability proof Will the margarine producer have to be able to state that the Omega3 used is not from seals?	There are tens of thousands of producers using Omega3; hence administrative costs would be huge. What would be the concern of the consumer?
6	An EU gloves importer, imports leather gloves made in China. The gloves are lined with seal skin	Marginal cases/minimum value The importer (or exporter) will have to be able to prove that the seal skin falls under 1 of the 3 exemption areas. Or could a minimum value be applied as is the case with the US rules?	
7	Copenhagen Fur holds auctions in Copenhagen and sells on seal skin to third parties outside Europe	Transit Is this to be regarded as 'transit'?	If the auction makes money from the transaction (highly likely), this implies part of the 'market value' of the seal product is realised within the EU. However, the product is not physically placed on the EU market.
8	A number of skin traders are based in EU member states (and Norway). They buy raw skins in Canada, the skins are tanned and dressed in Canada. Although the final customers are in Russia or Far East, the invoicing goes through the EU company and often through Logistics intermediates in Helsinki, Frankfurt etc.	Transit The skins are not to be placed on the EU market and are on 'transit papers'. However, any trade profit is to be registered within the EU	
9	A German wholesaler has 20,000 sealskins in stock due to the current lack of demand. The skins do not have 'traceability' certificates, but have already 'entered' the EU market.	Transition period The traceability scheme needs to include a transition period to take into account intermediate products already placed on the market	
10	Scottish shop owner that has as a business the rental of quilts and sporrans, the latter made of sealskins. These sporrans were purchased a few years ago and ever since new sporrans have not been acquired. The shop owner has no trace of the origin of these sporrans - would the rental of a ten-year-old sporran be considered "placing on the market" and thus, prohibited?	Transition period The product does not change owner.	Do we need to define placing on the market? e.g. make available to the EU consumer for use and consumption?
11	A Swedish lady decides to get rid of a few of her old fur coats, one of them made of seal skin. There are different possibilities:		
A)	she sells it to her next door neighbour and makes a	Placed on the market	This raises issue of what hap-

	Trade Scenario	Traceability scheme challenges	Implications
	small profit	- Can this be considered to be "placed on the market?". As in the previous case, the coat is quite old - early 70's and there is no way she can find out where it came from or how the seal was killed.	pens once a product is on the market; the 'new' products that fall under a new traceability system will have a label or certificate of some sort, but old products will not. Perhaps it should be interpreted to mean that any product that initially entered the market before the ban will not need certification after.... Or can be registered as being pre-ban and thus exempted....?
B)	She puts an add on "ebay" and due to the high demand, makes a huge profit.	Profit further down the line - would this be prohibited by the EU ban?	This is a more general problem. Once the product is 'in' i.e. has been imported and placed on the market, it would be possible to sell it on for a profit... Would a traceability system have to continue to be 'followed', cf. registration system under CITES
C)	The lady lives in Norway and sells it to a Swedish lady- the coat is therefore "imported" into Sweden - the coat is sent by DHL in a medium size box.	Would this be considered to be a "placement on the market"? Would a second-hand sale be included in the EU ban?	See above

5 Developing options for a traceability scheme

The options for a traceability system were developed through a review of a number of existing systems and through consultations with experts and key stakeholders. This resulted in the formulation of three options with different characteristics, hence different impacts.

First, we consider a number of existing systems both related to seal products and other products to identify aspects and lessons learnt that could be useful for a traceability system for seal products. From these we distil the minimum requirements and other necessary features of a traceability system as it would also be applicable to trade in seal products. Subsequently, we look at different ways forward from these minimum requirements, assessing what foundation may already be present in the different sealing nations under consideration. We conclude with the formulation of three traceability options that consider these different aspects.

5.1 Lessons from existing traceability schemes

Based on existing literature and information as well as stakeholder interviews an initial assessment was made of existing traceability schemes for other products than seal products.

According to ISO 9000:2000 the definition of traceability is "The ability to trace the history, application or location of that which is under consideration".

There is an additional clause which states that when relating to products, traceability specifically entails "the origin of materials and parts, the processing history, and the distribution and location of the product after delivery".

Traceability systems in other sectors

There are various sectors and products for which traceability systems are already in place for different reasons. As products made from seal parts include food / feed, pharmaceuticals and other consumer products, these various traceability systems may be more or less relevant according to the different seal products in question.

In the table below we provide an overview of a number of the traceability systems that were considered, describing their characteristics and the most important institutional structures governing them as well as their potential relevance to the case of trade in seal products – rated as H (high), M (medium) or L (low).

Table 5-1 Overview of traceability schemes

Scheme / programme	Characteristics	Relevance (H / M / L)
Marine Stewardship Council label for fisheries	<p>The MSC is the world's leading certification and eco-labelling programme for sustainable seafood. The Council was established after a joint initiative taken by WWF and Unilever, who believed that that a global, market-driven approach to encouraging the trading of sustainably caught seafood was likely to make a significant contribution to other efforts and existing regulation. The MSC was registered as an independent charity in 1997. Standards for sustainable fisheries were developed in close consultation with experts and stakeholders, and were consistent with the UN Food and Agriculture Organization (FAO) Code of Conduct for Responsible Fisheries.</p> <p>Subsequently a certification and labelling scheme were developed which entail a full chain of custody traceability system. This means all operators within the chain must be MSC certified and have in place in-house traceability systems – separating non-certified from certified product during processing within a company – in order for the final product to be allowed to carry the MSC label.</p> <p>Certification can only be provided by registered independent third party certification bodies, which in turn need to be accredited by a central accreditation body.</p> <p>The system is voluntary, but has been highly successful in securing the participation of some of the biggest players in the market. It brings together a varied group of organisations around the world; the fishers, seafood industry, retailers, foodservice and non-government organisations.</p>	<p>M - H</p> <p>It is voluntary and does not involve a ban or restriction per se, however, it contains a full chain of custody traceability certification system, which could also be an option for an enforced traceability system.</p> <p>The MSC has extensive experience with certification and traceability and this technical experience could be applicable and useful for trade in seal products implementing measures.</p>
Egg tracing scheme	<p>Possible technologies for labelling eggs either on the carton of the box and/or on the individual shells:</p> <ul style="list-style-type: none"> ▪ Rubber stamping ▪ Ink jet printing ▪ Laser etching (on the shell of the egg) ▪ RFID tags on cartons 	<p>L</p> <p>Only applies to table eggs, i.e. the whole products and not to all products it may end up in (as is the case with seal products).</p>
Food traceability under EU General Food Law	<p>Traceability helps facilitate the withdrawal of food and enables consumers to be provided with targeted and accurate information concerning implicated products. Traceability does not itself make food safe. It is a risk management tool to be used in order to assist in containing a food safety problem. It is a system based on minimum requirements and flexibility with regard to the implementation. No internal traceability is required.</p>	<p>H.</p> <p>The traceability requirements under the EU food law provide a flexible system, which stipulates the responsibilities for the business operators in the chain, but leaves 'how' this is achieved up to the operators themselves.</p>

Scheme / programme	Characteristics	Relevance (H / M / L)
	<p>Article 18³⁷ of the EU General Food Law requires food business operators to be able:</p> <ul style="list-style-type: none"> ▪ to identify from whom and to whom a product has been supplied; ▪ to have systems and procedures in place that allow for this information to be made available to the competent Authorities upon their request. <p>The requirement relies on the “one step back”-“one step forward” approach which food business operators implies for that:</p> <ul style="list-style-type: none"> ▪ They should have in place a system enabling them to identify the immediate supplier(s) and immediate customer(s) of their products. ▪ A link “supplier-product” should be established (which products supplied from which suppliers). ▪ A link “customer-product” should be established (which products supplied to which customers). Nevertheless, food business operators do not have to identify the immediate customers when they are final consumers. 	<p>It does not compel operators to put in place internal traceability systems (establishing a link between incoming and outgoing products).</p> <p>The traceability provisions do not have an extra-territorial effect outside the EU, as they only cover all stages of production processing and distribution in the EU, namely from the importer up to the retail level. The objective of the Regulation is fulfilled because the requirements extend to the importer. Thus, there is no certificate of origin requirement.</p>
EU scheme on organic products	It is based on voluntary application to EU legally binding production specifications verified by private certification bodies, operating under ISO rules and supervised by MS. The certification verifies compliance with legally defined production methods. An EU logo is granted to certified producers.	M It is a certification scheme associated with a logo and labelling
Identification and labelling of beef and veal	<p>Regulation (EC) No 1760/2000 establishes a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products. The latter in particular may be relevant to seal products. The regulation establishes <i>inter alia</i> a compulsory labelling system (Title II, Section I) and a voluntary labelling system (Title II, Section II) for beef and veal).</p> <p>II.I) Compulsory labelling: operators or organisations marketing Community or imported beef are obliged to label the beef at all stages of the marketing process. When the product is not pre-wrapped, they must supply relevant information in written and visible form to the consumer at the point of sale. The following information must be shown on the label:</p> <ul style="list-style-type: none"> ▪ the reference number or code establishing the link between the meat and the animal, or group of animals, from which the meat was derived; ▪ "Slaughtered in" (country where slaughter took place and licence number of the slaughterhouse); ▪ "Cutting/cut in" (country where cutting was performed and licence number of the cutting plant). ▪ The last two may be less relevant to seal products, as the origin of the hunt determines eligibility of the product under the seal Regulation, not the processing of the hunted animal. 	<p>M/H Also concerns a live animal that may undergo further processing after its killing and thus end up on final markets in different forms.</p> <p>It should be taken into account that</p> <ul style="list-style-type: none"> - animal movements are under official control from the veterinary services - slaughtering only takes place under direct control of competent authorities (veterinary services) with should carry out specific inspection activities lay down in law - cutting plants and further processing into meat products are also under official control of the veterinary services <p>The voluntary labelling scheme may provide further examples of how Inuit communities or products coming from sustainable resources management may be clearly distinguished and even promoted.</p>

³⁷ REGULATION (EC) No 178/2002 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety.

Scheme / programme	Characteristics	Relevance (H / M / L)
	<p>In the case of seal products, the link should be with the hunters or communities by which the animal was harvested.</p> <p>II.II) Voluntary labelling: operators or organisations marketing beef may include information complementary to what is required in their labelling. To this end, they must send a specification for approval to the responsible authority of the Member State in which the beef in question is produced or sold. The specification must include:</p> <ul style="list-style-type: none"> ▪ the information to be displayed on the label; ▪ the measures to be taken to guarantee that the information is accurate; ▪ the checks applicable at all stages of production and sale, including those to be carried out by independent bodies recognised by the responsible authority; and ▪ the penalties to be applied, in the case of organisations, to members who fail to comply with the specifications. 	
CITES & EU Wildlife Trade Regulations	<p>The Convention on International Trade in Endangered Species (CITES) is an international agreement. The aim of CITES is to ensure that international trade in wild animals and plants is not a threat to the conservation of the species in the wild. CITES currently regulates trade in around 30,000 species of fauna and flora, and works through a system of permits and certificates that must be obtained before international trade in specimens of species covered by the Convention can take place.</p> <p>The main focus of CITES is species survival, but there are elements of animal welfare incorporated in the Convention as well.</p> <p>The dispositions of the CITES convention are translated in Community law by Reg (EC) 338/1997 (EU Wildlife Trade Regulation). Provisions of this regulation relating to the control of commercial activities go beyond the obligations set by the CITES convention stating that “the purchase, offer to purchase, acquisition for commercial purposes, display to the public for commercial purposes, use for commercial gain and sale, keeping for sale, offering for sale or transporting for sale of specimens of the species listed in [Annex 1] shall be prohibited”</p> <p>CITES and the EU Wildlife Trade Regulation do not include requirements for a traceability system, but rather a system allowing to control and monitor trade in (endangered) species. It does not seem to be able to trace the use of parts of endangered species processed in food products. But there are traceability systems (such as for caviar – see box below) that are based on the principles of CITES.</p> <p>There are a number of pinnipeds currently covered under the CITES agreement:</p> <ol style="list-style-type: none"> 1) All monk seals as well as the Guadalupe fur seal are listed in appendix 1 (species threatened with extinction) 2) The southern elephant seal and all other fur seals (covering 9 different species, including the Northern fur 	<p>M-H</p> <p>Although not a traceability system per se, it provides useful insights into the management and institutional requirements for managing trade in endangered species. Moreover, it applies the principle of non-commercial use, which may be useful for the case of trade in seal products as well.</p> <p>The system of import licenses and export quota could provide useful insights and lessons learned.</p> <p>Some species of seal are already covered under CITES for conservation reasons. The grounds for listing (conservation) are thus different than under the new Regulation for trade in seal products (Inuit hunt and sustainable management of marine resources) and it is therefore unlikely that a traceability system developed under the Regulation could be directly linked to CITES and the EU Wildlife Trade Regulation.</p> <p>However, from a practical perspective, it must be noted that different centralised electronic databases of specimens, based on the registration or marking of the specimens, have been adopted in different Member States. Some of these store all known data on all keepers and all registered specimens allowing for registered specimens, to be followed within the territory of import and to be able to trace them when traded. These systems could provide useful examples for the technical aspects of a traceability system under the new Regulation.</p>

Scheme / programme	Characteristics	Relevance (H / M / L)
	<p>seal and the Cape fur seal) are listed under appendix II (species not necessarily now threatened with extinction, but which may become so if trade is not strictly regulated)</p> <p>3) The <i>Odobenus Rosmarus</i> or Canadian Walrus is included in appendix III (species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade).</p> <p>The seals mainly hunted in countries involved in commercial sealing – the harp, ringed, harbour and hooded seals – are not enlisted in CITES, however, the Namibian southern fur seal is, as is the Northern fur seal, which roams in Alaska. Both are listed for conservation reasons.</p>	

Text box 5-1 Labelling system for Caviar- Practical example

In April 2000, CITES Parties agreed on a universal labelling system for the identification of caviar. The labelling requirements for the identification of caviar in the European Union are detailed in Art. 66(6) of Commission Regulation (EC) No. 865/2006 which fully implements the CITES provisions regarding caviar labelling.

All primary containers (tin, box, jar, or other container into which caviar is directly packed), irrespective of size and including containers of repackaged caviar, must be affixed with a non-reusable label that includes a unique code. The label must either seal the container or the caviar must be packaged in such a manner as to permit visual evidence of any opening of the container i.e. it should become evident if the container has been opened. The uniform labelling system applies to all caviar produced for commercial and non-commercial purposes, from the wild or farmed, and includes re-packaged caviar and all caviar sold on domestic markets. Licensed (re-) packaging plants shall be required to maintain adequate records of the quantities of caviar imported, exported, re-exported, produced in situ or stored.

Labels should allow authorities to trace the origin of the caviar. The label to be affixed on primary caviar containers in the country of origin (and hence first country of export) contains a different set of information to the label affixed in a country that is re-packaging the caviar. The label affixed by the processing or packaging plant in the country of origin must include the information as shown in the example below using the codes agreed in Annexes 1 and 2 of CITES Resolution Conf. 12.7 (Rev.Cop14) (see <http://www.cites.org/eng/res/12/12-07R14.shtml>). Import and export permits and re-export certificates may only be issued when the Management Authority is satisfied that the caviar container is marked in accordance with these conditions.

Example of label to be affixed in the country of origin on all primary caviar containers:

HUS/W/RU/2000/xxxx/yyyy
HUS: Standard species code1, here "Huso huso"
W: Source code2 of the caviar{ XE "caviar" }, here "wild"
RU: ISO code of the country of origin, here "Russian Federation"
2000: Year of harvest, here 2000
xxxx: Number for the processing plant
yyyy: Lot identification number

Example of label to be affixed in the country of re-packing on all secondary caviar containers:

PER/W/IR/2001/IT-wwww/zzzz
PER: Standard species code, here "Acipenser persicus"
W: Source code of the caviar, here "wild"
IR: ISO code of the country of origin, here "Islamic Republic of Iran"
2001: Year of repackaging, here 2001
IT-wwww: The official registration code of the repackaging plant, which incorporates the ISO two-letter code of the country of repackaging if different from the country of origin
zzzz: Lot identification number, or CITES export permit number, or re-export certificate number.

For the purposes of facilitating the marking requirements for caviar, the Management Authority must license facilities (or plants) that process or (re-)package (i.e. package or re-package) caviar, including caviar-producing aquaculture operations and must attribute a unique registration number to these facilities. The facilities must also maintain adequate records of the quantities of caviar imported, exported, re-exported, produced in-situ or stored that must be available for inspection by the Management Authority in the relevant Member State.³⁸

Technical issues

In the context of food, verification may take place through the chemical tracing of food products origins, where ingredients are tested against what is said on the label. Certain methods even allow for the measurement of the 'fingerprint' of a foodstuff, including geographical origin. However, it may be critical to trace the origin of animals feeding on migrating fish, and an ad hoc system should first be scientifically verified.

Ideally, the system would eventually include RFID tags (radio frequency identification), as these can store a great deal of information with little effort required, are easily operated, and have high visibility. However, at this moment, there are no European regulations with regard to RFID, and the technology is still evolving. Moreover, given the nature of the trade (small scale) a very sophisticated system would also be too costly. A barcode system on fur skins and packaging of other seal products would probably be a better and more feasible option.

The table below provides an overview of main methodologies for traceability.

Table 5-2 Overview traceability methodologies

Methodology	Characteristics	Relevance (H / M / L)
Chemical tracing of food products origin	Used for testing the origin and ingredients against what has been told in the labelling infrared spectroscopic techniques. In this research, primarily organic compounds present in foods are measured as opposed to trace elements or isotopic ratios. These organic compounds absorb radiation at particular wavelengths or frequencies, thus giving rise to spectral signatures which are characteristic of the food composition and which may be considered as "fingerprints" of the food. Chromatographic methods and nuclear magnetic resonance are also widely used for the measurement of the "fingerprints" of foodstuffs	H for food and feed-stuffs
TraceFood	TraceFood is a framework for traceability which consists of principles, standards and methods for Good Traceability Practice in the food industry. By adopting the TraceFood Framework, methods, procedures and practices for meeting all existing and future food traceability requirements are established. TraceFood is compatible with the GS1 recommendations for traceability, and represents a "minimum information loss" scenario with traceability of each individual food item. TraceFood was originally based on work done in the EU projects TraceFish, SeafoodPlus and TRACE. Several other international projects and initiatives now support the framework. Guidelines and standards have been, and are being developed for numerous food sectors, including seafood, mineral water, honey, chicken, cereal and meat. The goal is to ensure that food items and processes are identified in a uniform way, that a common electronic language is available for	idem

³⁸ Sources: An assessment of the implementation of Caviar labelling and licensing Provisions in the European Union:
http://ec.europa.eu/environment/cites/pdf/studies/caviar_labelling.pdf; Regulation 865/2006

Methodology	Characteristics	Relevance (H / M / L)
	interchange of traceability information, and that a common Good Traceability Practice underlies all implementations.	
Other methods	<ul style="list-style-type: none"> • Data sheets • Barcodes (Advantages: cheap, well-known and tested; disadvantages: manual operations, late operations, a lot of work for tracing all the steps) • RFID tags (radio frequency identification) (Advantages: lots of information with few efforts, easily operated, high visibility; Disadvantages: no European regulations, evolving technology) 	H
Examples of electronic databases linked to CITES.	Where they are established, centralised electronic databases of specimens are useful tools to monitor trade in wildlife and facilitate the exchange of information among different authorities. Different systems based on the registration or marking of the specimens, have been adopted in different Member States.	M-H

5.2 Minimum requirements to a traceability system applied to the Regulation

Three key aspects of a traceability system

Based on the assessment of different traceability schemes the minimum requirements to a traceability scheme could be formulated as a set of requirements that economic operators looking to import into the EU must fulfil, including three key aspects:

1. Identification requirements
2. Record and record-keeping requirements
3. The ability to produce traceability reports (verification).

How traceability is further organised depends on the kind of system put in place and the responsibilities allocated to the various parties involved. It appears that the basic elements needed for identification are often already in place, implying that the implementing rules could build on such existing elements.

In the context of the Regulation of trade in seal products, these minimum requirements should be interpreted as follows:

1) Identification requirements

The identification requirements comprise in principle three elements:

- The hunter (either Inuit / indigenous hunter or licensed hunter for resource management purposes) – having a unique identification number
- The collecting station (designating the territory / geographical location)
- The product (essentially traces the transaction between the hunter and the collecting station).
- For the purpose of article 3.2b) it may be necessary to identify in addition or instead 'the hunt' in case it is not directly linked to the hunter, there is no collecting station or it does not cover the national level, but only specific regions.

2) Records and record-keeping requirements

Record-keeping requirements include the ability to produce on demand records that contain the identification of the product. This should contain proof that the hunter / product meets the conditions of the Regulation. This record should be provided by the economic operator upon request. The way in which this is done could be left to the economic operator, or specified more clearly in the implementing rules.

3) Producing traceability reports

This is the most complicated part of the requirements, as it implies the development of some kind of form or communication that the exporter will send along with the actual product. This should be a standardized form per country, which includes the principles of identification and record keeping. This could take different forms, e.g. a self-declaration, a declaration by a trade association or by a national or sub-national government. It could also entail a certificate originating from a certification scheme.

This form is essentially an attestation of an identification system and record-keeping that could be verified. In other words, it declares that the requirements are met and that the economic operator issuing the form is open to verification.

5.3 Minimum requirements for traceability of seal trade – existing systems

Identification issues
and existing sources

Identification at the source

Given the small-scale nature of the hunt and trade of seal products that fall under article 3, it should be possible to identify compliant products close to their source, i.e. the actual hunt and then track the product as it moves downstream. Existing licensing schemes in countries could serve as a starting point while in some countries forms of labelling already exist.

In Canada (Nunavut) and Greenland government support schemes provide a centralised database for identification of hunting sources. In the case of Greenland, it is per definition Inuit / indigenous, while in Canada the enrolment lists of the respective Land Claims Agreement Corporations could identify eligible hunters and their product pursuant to article 3.1.

In Russian organisations such as a) RIPON or b) MorZveroboy's Union ('sea hunters union') could serve as gateways to identifying the products produced by Russian Inuit. Both organisations have representations in all relevant regions, even in the smallest communities where seal hunting takes place and will be able to provide reliable information.

Although no official traceability system is in place in Canada, seal products from traditional subsistence hunt by Inuit are reasonably easy to identify as they concern predominantly one species (ringed seals). The skins are prepared traditionally and not processed industrially (making them relatively easy to recognise), while sales from the dominant source of Inuit products takes place

through a government programme (skins from Nunavut) where skins are collected centrally.

In many countries, the hunt is regulated to maintain the population of seal species at a healthy level, which involves licensing and / or quota schemes. The table below provides an overview of existing schemes in the countries under consideration.

Table 5-3 Regulation of sealing through national management systems

Quota and licensing scheme	Licensing scheme, no quota	No system in place
<ul style="list-style-type: none"> ▪ Canada (not applicable to Inuit / hunters above 53°N) ▪ Norway (applicable to all hunters irrespective of ethnicity; two types: for larger scale East & West Ice hunt and for small scale Coastal hunt) ▪ Russia (a quota system is in place and this most likely entails a licensing programme) ▪ Finland ▪ Sweden 	<ul style="list-style-type: none"> ▪ Greenland ▪ Alaska (only subsistence hunt allowed) 	<ul style="list-style-type: none"> ▪ UK (Scotland)

* Namibia is not considered here as its hunt would not fall under any of the derogations, implying the Regulation would amount to a complete ban for Namibia.

As such, almost all types of hunt are registered and could be traced back to the actual hunters if need be, providing a basis for relatively easy identification.

However, it must be noted that for eligibility under article 3.2.b it is likely that a different system is needed, as in this case the hunter or hunting community is not the only relevant aspect, but implemented legislation and management programmes at the national level of the sealing country, i.e. governing 'the hunt' as such are also relevant.

Identification at the border

Trade codes
and practical
implications for
customs authorities

The stakeholders interviewed in Greenland, as well as in the North Atlantic Fur Group (NAFG) suggested a solution where a traceability system be based on trade codes, adding an extra digit to the existing codes for seal products to indicate that the product has Inuit origin. In Greenland and Canada, export licences are already required for trade of seal products and are issued by the Ministry of Commerce and the Provincial Governments respectively (in Canada trading between states within the country already requires export licences). The Greenlandic stakeholders argued that this solution would require minimum of additional administration compared to the current system. There was broad agreement among the stakeholders interviewed that the system should be based on customs declarations and follow the existing paper trail.

However, considering the small amount of products concerned it seems unlikely – given the large number of products that could possibly contain seal –

that new trade codes for all these products would be developed. A more likely alternative is to develop an indicative list of product codes (of products that may contain seal products), to be provided to Member States' customs officials, which would trigger the request for identification and records. Thus, a system should be put in place enabling customs officials to know what to look for.

As all customs clearance in the EU is done electronically, the appearance of a customs code that is on the indicative list would trigger the customs official to look for at least one of two forms:

- 1 A declaration stating the product does not contain seal products
- 2 A declaration stating that the product is made of seal product that complies with article 3 of the Regulation; providing additional required records for identification.

Enforcement and monitoring by Member States

Member States will be the primary responsible for implementation of the Regulation and enforcement of the implementing measures. As such, they are responsible for monitoring and verification, while they also are to lay down the rules on measures and penalties applicable to infringements. The key aspects to be taken into account in this respect are effectiveness, proportionality and dissuasiveness.

Traceability of seal products from Inuit / indigenous hunt

Record-keeping and ability to provide traceability reports

Only in Greenland some form of traceability system was found in relation to seal products and Inuit hunters, which has been developed in anticipation of the EU Regulation.

As mentioned previously, in Greenland each skin is registered when purchased so it is possible to trace back the number of skins sold by each hunter, per species. Moreover, all Great Greenland skins are automatically measured, stamped for size, quality, production code and the Great Greenland logo. Products from Great Greenland are also affixed a label containing a bar code, containing the above-mentioned information and the text: traditional hunt conducted by INUIT communities for subsistence purposes. Great Greenland, moreover, enclose a statement with their products, issued by the Directorate for Environment and Nature, stating that the seal products are legally hunted and in line with CITES. This is to emphasize that none of the seal species hunted is on the CITES list.

Other voluntary schemes

Under the IFTF managed Origin Assured label Canada, Denmark / Greenland (only seal species) and Norway (only seal species) have been approved for production of OA furs from wild furs, which covers seal fur skin from harp, hooded and ringed seals (approved species). OA is a voluntary labelling system that distinguishes furs *by origin country and species*. Any Canadian, Danish / Greenlandic or Norwegian producer can apply for the label at the IFTF, although only OA fur sold through participating auction houses can obtain the OA mark.

Traceability of products from sustainable management of marine resources	No existing systems were found for this type of hunt. However, in many countries the hunt is regulated for the purpose of maintaining the population of seal species at a healthy level, which involves licensing and / or quota schemes (see section 5.2).
Other systems applicable to seal products.	Some seal products are already covered by a traceability system – although not specific to the seal content as such. For instance, under EU food law, "traceability" means the ability to track any food, feed, food-producing animal or substance that will be used for consumption, through all stages of production, processing and distribution. ³⁹ This means that seal oil products as well as seal meat would already have to comply with this law and the traceability system that is part of it.

However, traceability under EU food law is a risk control tool to limit the scale of the necessary protective measures which need to be adopted in the event of a food hazard. Although it is not applicable to third countries (only to the importer), such parties may find the EU market closed when they are not able to demonstrate that they are managing a critical event successfully. Given the purpose of the food law and nature of the traceability system under this law, it does not trace products back to their origin in most cases where it concerns imported products.

5.4 Three alternative traceability systems

Based on our review of minimum requirements, technical and enforcement implications, and existing identification and traceability systems, we have developed three different options for a traceability system as part of the implementing rules of the Regulation.

5.4.1 Option 1: Minimum requirements

The first option would involve the setting up of a system that covers the minimum requirements for traceability (i.e. for identification, record keeping and traceability reports) and leaves the implementation of the actual system behind this up to the economic operator. As such it provides the economic operators in the various countries – which differ strongly with regard to the nature and scale of the hunt and trade in seal products – with the flexibility to opt for the most efficient system in light of their circumstances and existing systems.

In this system, business operators hold primary legal responsibility for ensuring the compliance with the Regulation. The penalties for infringement would be developed by the Member States.

With respect to article 3.2b, it is likely that the minimum requirements would suffice for Sweden and Finland, which have no commercial sealing industry and a very small-scale hunt altogether. With other sealing countries wishing to trade with the EU under this exemption, the EU could come to an agreement

³⁹ http://ec.europa.eu/food/food/foodlaw/traceability/factsheet_trace_2007_en.pdf

with the relevant country's government, by which the parties accept that the hunt complies with the conditions of article 3.2b. Such an agreement would have to be renewed after review / consultations every 3 to 5 years. For Norway and Canada such an agreement would have to indicate the specific hunt (e.g. the regions or communities in which it takes place) and the maximum amount of product to be landed / bagged per hunter as well as traded (to ensure the scale of the hunt is non-commercial). This information should be added to the identification requirements and records.

After the implementing rules have been formulated and all minimum requirements thus clearly stated and in place, the EC could work in a cooperative manner with the various affected countries towards arriving at a feasible and cost-effective approach to putting systems in place, which would be open to periodic checks to ensure credibility. In other words, parties should work towards reaching recognition agreements instead of implementing a strict policing with heavy penalties.

This option is as close to a no-policy option as possible and will therefore serve as the baseline for our impact assessment in the next chapter.

5.4.2 Option 2: Intermediate option

The second option involves the formulation of the minimum requirements as in option 1, but includes a third party verification system, which comprises external compliance auditing by a designated third party.

The designated auditing body would perform regular audits and possibly on-the-spot checks (e.g. pre-shipment inspections). The agency would be funded by the EC. The main organisations to be audited will be the record-keeping authorities to establish whether information provided is accurate and traceable. Failure to pass an audit would result in suspension of access to the EU market until compliance has been achieved to the satisfaction of the auditors.

The same system as under option 1 with regard to 3.2b would be operated.

Option 2 thus adds administrative costs – relative to option 1 – mostly for the EU, as it will fund the auditing. In addition, some additional compliance costs will have to be covered by economic operators, while audits themselves will require time inputs for economic operators, hence some costs.

The auditing system adds credibility and robustness to the traceability system in comparison to option 1.

5.4.3 Option 3: Full chain of custody traceability scheme

The third option concerns a mandatory full chain of custody (CoC) traceability system, based on the standards set by the EU (the minimum requirements) and third party *certification* and *accreditation* (cf. the MSC CoC traceability system).

This implies that all operators in the chain must be certified by third party accredited certification bodies, which, in turn, must be accredited. The standards as contained in the Regulation form the basis for certification requirements. Next to chain traceability, internal traceability will be required as well for processing companies. The traceability system will cover the entire chain, up until the retailer, with a clear label for consumers to distinguish products and their origin

To ensure compliance with article 3.2b under option 3, additional identification and record keeping requirements would apply. Next to the identification of the hunter and hunt (as required under options 1 and 2) transactions would also have to be identified, e.g. through a system of sales permits and recording of time, location and price of the sale, to ensure the non-profit / non-commercial nature of seal hunting and trading.

Option 3 will add substantial costs to all parties involved, but mainly to economic operators, in comparison to option 2 in order to obtain certification, permits, etc. Compliance costs will also be higher, due to the need for internal traceability systems and high demands on record keeping.

The robustness and credibility of the system is further improved, while information and transparency for consumers is also high. The non-profit and non-commercial requirements under 3.2b are made more explicit and verifiable.

6 Impact assessment and comparison of traceability options

In the context of the current study, the impact assessment concerns the assessment of the implications of three selected policy options for traceability. Thus, it focuses strictly on the implementing measures as related to the articles 3.1 and 3.2b and not on the impacts of the Regulation as such. The latter impact assessment was conducted in 2008 (COM(2008) 469 final; SEC(2008) 2290). The findings of this IA would remain valid for all non-exempted countries / regions / communities; in other words, in cases where the Regulation effectively functions as a ban.

Some additional effects may stem from the derogations and the fact that these may cause shifts in trade and employment from non-exempted to exempted countries / regions / communities (diversion). For instance, currently all seal oil is derived from the Canadian commercial hunt. As this hunt is unlikely to fulfil the conditions of article 3, some of the sourcing for blubber may shift towards notably Greenland, which is likely to fall within the conditions under article 3. This may even result in additional investments in Greenland in collection and/or processing facilities. The extent to which such a shift will take place depends on whether the EU market remains economically interesting enough to justify the investments needed. The traceability options may influence this, as a more costly system will add to marketing costs and if too high may outweigh benefits. Such issues will be considered when looking at the three options.

Assumptions

As a number of issues with regard to the definitions of the various concepts in the Regulation and the interpretation of certain articles are not yet clear (they are still in the decision-making process) we have made a number of assumptions on these issues.

- 1 Transit and processing: We assume that any *transit* through the EU territory, which does not concern placing of the product on the market, i.e. making available for consumption against payment, will not fall under the Regulation. This entails principally auction houses serving as intermediaries between non-EU sellers and non-EU buyers as well as transport of goods from one non-EU country to another non-EU country, where EU territory is passed. However, we assume that products *processed* within the EU territory, even if not intended to be finally consumed there, will fall under the Regulation and thus must comply with article 3.

- 2 Second placing on the market: We assume that once products are placed on the market for the first time, they will not be traced further within the EU.
- 3 Goods for personal use of traveller and their family: The goods will have to be accompanied by the travellers, with a maximum number of items per traveller (to be specified). In case this number is exceeded, the products must comply with articles 3.1 or 3.2b), the burden of proof for which will lie with the traveller.
- 4 Non-profit and non-commercial: For the purpose of the assessment non-commercial is not defined in such a way as to preclude all placing on the market in exchange for payment, but defined as covering only costs, being non-systematic and of such a scale (e.g. number of seals per hunter or size of batches sold) that it is sufficiently likely that it does not concern a commercial, profit-making activity⁴⁰. The conditions of non-profit and non-commercial are seen to apply to the hunt. As such, it is sufficient to guarantee that the derogation will not lead to additional hunting for reasons of commercial gain. The hunter is merely compensated for costs and allowed a limited quota per year.

As we will illustrate, assumptions 2 and 3 have implications for a traceability system related to article 3.2b, and we will therefore also consider a stricter interpretation of these two issues, where the non-profit / non-commercial requirement are retained throughout the chain.

- 5 Financial crisis: The current economic crisis has had a particularly hard impact on the industry – as on many other luxury goods industries. Thus, demand, sales and prices have all seen sharp decreases since 2007, and the market has shrunk considerably. When assessing impacts of the Regulation this distorting factor is important to keep in mind. Based on stakeholder views, we assume that markets will improve as the economy recovers, however, they will not return to the same levels as in 2006 – a year generally considered as a boom year for the industry. In other words, we assume that the ban will have a small negative impact on actual demand in the EU.

Finally, as mentioned in the Approach and Methodology chapter, we do not develop a baseline scenario in the sense of there being a "no policy option" – as is customary in IAs. The reason being that the new Regulation requires a policy action by the EC – i.e. there is a need to implement some form of a traceability system. Hence, doing nothing is not an option. The IA guidelines refer to this type of initiative as a 'comitology item' (for explanation, see footnote number 13). Therefore, we define the minimum requirements option (Option 1) as being the 'least EU policy action'. Hence, when assessing the two other options we do this in comparison with Option 1.

⁴⁰ As non-commercial movements of specimens are considered movements between registered scientists, scientific institutions, for museum specimens or exchange of herbarium specimens, etc. (source: EC reg. 865/2006). According to Govt of Australia, non-commercial use is: research; education; exhibition; conservation breeding or propagation; household pets; personal items and travelling exhibition.

6.1 Assessment of impacts

The assessment of the main potential socio-economic impacts of the options is discussed on a by-country basis, allowing for the main impacts given the specific context / circumstances of the country in question. We conclude with a summary overview of impacts across countries, also taking into account diversion effects between countries insofar as relevant.

Alaska

Given the small scale of the hunt in Alaska, the absence of commercial trade due to a US ban on seal trade and the fact that the fur-seal hunted in this region is already covered under CITES, it is highly unlikely that the indigenous hunters in Alaska will trade with the EU at all, thus also not making use of any of the exemptions. This holds true under all three options.

Socio-economic impacts related to the implementing measures are thus expected to be non-existent.

Canada

For the Commercial hunt on the East Coast of Canada (Newfoundland and Canada) the Regulation will have a number of direct implications, which could affect the livelihoods of coastal fisheries communities. The seal hunt is regulated and managed under an extensive management programme including annual TACs, but it is neither Inuit / indigenous, nor part of a broader marine resources management programme.

Considering the trade chains, most seal oil produced and a substantial share of seal fur-skin come from this hunt. Although the EU has already lost significance as a final market (in the top year 2006 it accounted for an estimated 7 per cent of total seal product exports), it still plays a vital role in facilitating global trade in seal products. Particularly Denmark and to a lesser extent Germany play a key intermediary role accommodating one of the biggest auction houses, as well as several processing plants, warehousing facilities, etc.

Part of the Canadian products reaches global markets either through Norway or Denmark / Germany. Trade and employment impacts of the Regulation in these coastal fishing communities are likely to be slightly negative, regardless of the option implemented. However, collection and processing facilities are likely to be less negatively affected in case of a more flexible system (i.e. options 1 or 2), as in this case some of the products from the commercial hunt may be replaced by Inuit product. It must be noted that this concerns fur-skin only, as seal oil (or rather blubber) collection from Inuit sources is not economically viable and unlikely to occur.

Inuit products make up only a very small share of Canadian seal trade, and the amount of products currently ending on the EU market is negligible. Whether products from the commercial hunt now directed to the EU will be replaced by Inuit products depend on a number of factors, but several stakeholders have already indicated that it will not be possible in any case – nor desirable as far as the Inuit communities are concerned – to increase significantly the scale of the

Inuit hunt. In other words, it is unlikely that all commercial products can or will be replaced by Inuit products. The extent to which it will take place depends on:

- Perceived continued attractiveness of the EU market – the Regulation is likely to have a further negative impact on the image of seal products and this may imply a continued decline of the market (even after recovery from the crisis).
- Costs of adjustment – sourcing products from Inuit sources is more costly due to distances and logistics, as well as small batches. Some investments may be required to improve these issues before a switch to Inuit product could take place.
- Costs of traceability system to be implemented – while the minimum standards requirements could probably relatively easily be met by building on existing systems, full certification of the chain and particularly the putting in place of internal traceability systems is likely to be too costly given the amount of product involved.
- Extent to which Greenland can cover EU demand – given economy of scale considerations, it may not make sense to develop Inuit sources in Canada as Greenland by itself looks capable of covering more than the EU market as far as seal fur skins are concerned. Again, the *cost of compliance* plays a role here too.

These factors must be seen as the various trade-offs that economic actors will make; where net benefits are too low or even negative, Inuit products are unlikely to be placed on EU markets at all, even if the commercial hunt is no longer eligible. The costs of compliance play an important role in this respect.

The extent to which Inuit products from Canada will be able to enter EU markets under the derogations will depend heavily on compliance costs given the nature and economics of the hunt. It may also depend on voluntary initiative. If e.g. a clear label and identification system can be developed by Inuit communities and/or their representatives this may provide a marketing tool. It would also improve transparency for the consumer. Such a voluntary initiative would be possible under options 1 and 2, while under option 3 it is compulsory, the difference being that in the latter case all actors in the chain will need to be certified. Given the comparatively sizeable commercial hunt in Canada, and the fact that the Inuit seem intent on distinguishing their hunt from this commercial segment, we expect such labelling or other form of clear identification on the product, will take place under options 1 and 2 as well. While the costs of compliance and labelling for the Inuit may in that case not be that much lower than under option 3, it would mean that the costs to other actors in the chain would not be as high as under option 3, implying that the Inuit would be more likely to be able to market their product through existing channels.

Employment and income impacts for the Canadian Inuit are expected to be neutral to slightly positive, depending on the option chosen. As their trade with the

EU is close to zero as it stands, even the most strict option is unlikely to have a significant impact. However, indirectly they may be affected through prices and the overall image or signalling effect of the Regulation – possibly structurally decreasing global demand and prices of seal products. In a more flexible system (options 1 or 2) there could be a slight positive impact. If Inuit products manage to replace some of the products from the commercial hunt leading to and increased sales (in 2008 only 3,000 skins were in fact sold through auction, all back to Nunavut again). The effects are expected to be very modest though, as Inuit sources themselves have indicated that it is unlikely that, even under the most favourable scenario, the Inuit hunt will increase much.

Regional differences could occur between Inuit communities in the South-East (Labrador, Newfoundland and Quebec) and those in the North, as the former are more directly linked to the commercial hunt. If commercial products are replaced by Inuit products, it is more likely to come from these sources. This effect is not necessarily tied to one of the options.

Currently, the Canadian Management system in place for seal hunting is not likely to fulfil the requirements of article 3.2b). There is a possibility that instead of replacing a commercial seal product with an Inuit product, Canada will consider how it may develop an acceptable marine resources management system if this would allow it to continue to support both its commercial and Inuit hunt (thus allowing it to circumvent the issue of differential treatment between Inuit communities and small fishing communities on the East Coast, both with often limited economic opportunities). This could especially be interesting in terms of seal oil, as replacing this with Inuit sourced product is likely to be costly. Moreover, the Canadian Government has already funded research into an eco-system based management system.

Although the quantity of products would necessarily be limited due to the non-profit / non-commercial clause, this possibility should not be ruled out entirely as it may still be interesting from the perspective of the Canadian Government, providing some compensation for its costly management system already in place. Already the non-Inuit Canadian hunt is regulated by a quota and licensing system, implying identification should not cause too much of a problem. However, a full CoC system is likely to act as a deterrent as the small amounts of product concerned and the fact that most hunters would also still be engaged in the commercial hunt, would imply that the internal traceability system and separation of product would be rather costly to the economic actors. In other words, we do not expect that option 3 would have an impact on an increased amount of products eligible under 3.2b from Canada entering the EU market. Even under option 2, this is not likely. Only in the most flexible case – including a liberal interpretation of the concepts of non-commercial and non-profit and of the marine resources management system as such – could such an impact be expected.

Finland and Sweden

The Finnish and Swedish hunt could only be possibly eligible under article 3.2b), as no clear indigenous hunt as implied in article 3.1 could be identified.

Assuming an agreement between the EU and Finland and the EU and Sweden could be reached to the effect that the hunt is acceptable pursuant to article 3.2b, the following impacts may be expected.

The hunt in both countries is of a very small scale (an estimated total of 500 seals are bagged each year in the two countries combined) and managed by the Game Management Districts and Hunters Central Organisation in Finland and the Swedish Association for Hunting and Wildlife Management in Sweden. All hunted seals and hunters are registered. Thus, identification would not be much of a problem, nor would record-keeping or even the production of a traceability report, as already indicated by the Finnish and Swedish management authorities. Options 1 and 2 thus seem relatively easy to implement, with the second option providing the necessary credibility to the system, as it would entail auditing of the management authority and the hunt as such to establish whether it complies with 3.2b). The impact of these two options on the amount of eligible products entering the market and on trade flows is thus expected to be neutral. Some small additional costs would need to be made by economic operators, in the form of additional paperwork (certificates) to accompany the products, but most costs would have to be borne by the management authorities and in case of option 2 by the EU to fund external auditing.

As the trade chains in Finland and Sweden are relatively short – hunters process the seals themselves; there are no collecting stations and by-products are mainly sold on to local and regional markets – option 3 would not entail the certification of a large number of actors. Hunters would need to be certified by accredited bodies, as would the management authorities, and sales permits would need to be obtained. This would be relatively costly given the small scale of the hunt – it is estimated that on average hunters bag 1-2 seals a year.⁴¹ It could therefore be questioned whether hunters are willing to cover these costs. As a consequence, the hunter will have no incentive to actually kill or land the seal. Lack of population control, in turn, may lead to more damage to coastal fishery.

In terms of employment, the Regulation, regardless of the traceability option chosen, is not expected to have any impacts in Finland or Sweden as there are no professional full-time seal hunters. Likewise, the effect on income levels is expected to be negligible, as the hunt is non-commercial and seems hardly to add to family income. Rather there is a small price compensation for the hunter to cover costs and encourage some form of hunt. In this case, option 3 would indeed be considered too costly by the hunters; there would be a very small negative impact on income, as costs would not be compensated.

Consumer effects are likely to be mainly local / regional, as seal products rarely end up outside these markets. Transparency under all options would be improved, as even under options 1 and 2 a record would accompany the product.

⁴¹ Letter to Commission, Swedish Association for Hunting and Wildlife Management and Game Management District Svenska Österbotten / Hunters Central Organisation, Finland (02-12-2009)

Under option 3, a label indicating that the product is duly certified would be attached to the product.

Given the small scale of the hunt, no distribution effects are expected under either option.

Crucial to impacts in Finland and Sweden will be the question whether the hunt can be accepted as complying with article 3.2b) and how the issue of non-profit / non-commercial is dealt with.

Greenland

Greenland's hunt is likely to be eligible for import into the EU based on article 3.1. Therefore, compliance with 3.2b is not an issue and impacts will therefore only be considered in the context of article 3.1.

As Greenland has the most advanced system in terms of current identification and traceability of seal products, it is likely that the minimum requirements of the Regulation could be fairly easily adopted. Potential negative impacts of options 1 and 2 for Greenland are therefore expected to be minimal. Rather, Greenlandic products may be able to replace products currently deriving from the Canadian commercial hunt, implying that Greenland could succeed in making its system for support to hunters financially more sustainable (currently many products is kept in warehouses as they cannot be sold).

Additional potential positive impacts could entail investments in the setting up of blubber processing stations for the production of seal oil, as all seal oil currently is derived from the Canadian commercial hunt. The extent to which this will occur is principally dependent on a restoration of the EU market, maybe not to 2006 levels, but at least to higher levels than were witnessed in the 2007-2009 period. If the large players such as Rieber consider the EU's market potential for seal oil as worth the investment, it may consider revamping its investment plans. Another possibility would be that blubber is sent directly to Canadian processing facilities. In case of option 3, this is less likely to occur as internal traceability would be much easier in a Greenlandic processing plant, where it is the only eligible incoming product (in Canada it would be mixed with products from the commercial hunt).

However, option 3 would include compulsory certification of all hunters and considering the spread out nature of the Greenlandic hunt, this would be rather costly to the main economic operators in Greenland.

In the past, Canadian products entered Greenland and were subsequently been exported disguised as Greenlandic products. As a consequence, imports from Canada were banned, but the Regulation and the fact that it affects particularly the Canadian commercial hunt may increase the risk of illegal imports into Greenland. Given the nature of the terrain and geography, this would be quite hard to enforce. The likelihood of this impact would clearly be least serious under option 3, however, in our view, option 2 should suffice in ensuring minimal occurrence of such infringement.

Namibia

Since none of the Namibian exports of seal products to the EU are expected to comply with article 3, the potential impacts of the EU implementing measures are not relevant to this country. Rather the Regulation as such amounts to a ban for Namibian product. The potential impacts identified in the previous IA thus remain unchanged.

Norway

At first glance Norway does not appear to comply with the conditions of article 3 and would thus not be able to export seal products to the EU market. However, some trade of seal products *could potentially take place* under either of the two exemptions. Key for eligibility will be the extent to which the indigenous Saami hunting communities could be clearly identified, and the extent to which the hunt for management of marine resources is considered as acceptable (i.e. scientifically based) and demonstrably non-profit and non-commercial. Here we assume that Norway might succeed in doing both to assess potential impacts in a most 'positive' (from the perspective of Norway) scenario.

Under all options, Norway would have to set up a system to distinguish the indigenous Saami communities engaged in seal hunting for subsistence purposes from other hunters (identification). This would add costs to the current system (all hunters are licensed, but no distinction is made between hunters). A full CoC traceability system would obviously increase costs most, as these Saami communities – or rather the individual hunters – would then also need to be certified, as would the collecting station in Tromsø and processing plants. This would be costly, as internal traceability needs to be put in place in a system where commercially hunted products also enter the chain. The small amount of products concerned is unlikely to justify these costs. We therefore expect that the impact of option 3 would resemble the impacts of a ban.

Under options 1 and 2 it would be more likely that some form of identification was introduced and that eligible products find their way to EU markets, although amounts will be small.

According to Norwegian sources, the commercial hunt in the West and East Ice is encouraged to maintain seal stocks at a reasonable level. It is argued that this requires harvesting seals for sustainable management reasons. The quotas are determined based on scientific advice from the International Council for the Exploration of the Sea (ICES), the Northwest Atlantic Fisheries Organisation (NAFO) and the Institute of Marine Research in Norway. These recommendations are used as a basis for drawing up a multi-species management regime, which takes into account, inter alia, how the harvesting of seals will affect other species. As the effect of seals on other species is taken into account when deciding the Total Allowable Catch (TAC), this indicates that the management system is building on eco-management principles. Assuming this is an acceptable system to the EU, products from this hunt are potentially eligible to enter EU markets. Given the scale of the hunt, however, additional clauses would have to be included in an agreement specifying number of seals hunted per person under options 1 and 2, while under option 3, trade permits would have to be

included as part of identification of the hunt and compliance with the non-profit / non-commercial clause.

Given the nature and scale of the hunt in Norway, these additional clauses are likely to make only small parts of the hunt eligible and from an organisational point of view, this would hardly make it feasible to organise. We therefore expect that even with acceptance of the hunt as being conducted for sustainable marine resource management, the impacts in terms of amount of eligible products entering the EU market and trade will be negligible. , This is because hunters are engaged in the hunt as part of their income and thus are unlikely to sell at below market prices, but more likely to find new markets. This would be even more likely under option 3, as it more strictly prescribes non-profitability.

One of the impacts of the Regulation for Norway may concern the shift of seal-related activities such as processing or auctioning to Norway from notably Denmark and Germany. The close proximity to these two countries and the fact that some of the big players in the industry are already in Norway, would make this shift relatively easy for all economic actors dealing with non-eligible product, thus the Canadian commercial hunt, the Norwegian commercial hunt, possibly Namibian product, etc.

This effect is likely to take place regardless of the traceability system opted for, but would be dependent on the assumptions made above. For instance, under the assumptions made, transit and processing, and e.g. testing laboratories will be completely banned for non-eligible products in the EU, implying these activities will have to shift to elsewhere. If restrictions were relaxed, if e.g. transit of sample batches would be allowed through auction houses, activities would be less likely to shift.

Russia

The information available for Russia does not allow for a proper impact assessment of the three options. However, based on our understanding of current hunting, processing and trade patterns, Russian seal products barely, if at all, end up on EU markets or are even processed within the EU. As such, the implementing measures are unlikely to have any significant impact whichever option is chosen.

Only in case the market in the EU for exempted product increases, driving up prices for Inuit / indigenous seal product, there is a slight possibility that Russian Inuit / indigenous hunters may consider making the investments needed to engage in exports of their seal products. This could also be driven by the fact that the Russian market has all but collapsed, and seal product producers may be looking for other markets. Again, a more strict and costly compliance system as outlined under option 3 is more likely to deter potential investors.

United Kingdom

Hunting in the UK (Scotland) is allowed to protect fisheries, but products are barely traded even in local markets. Although sometimes referred to as a marine resources management system, it bears more resemblance to pest control, as seals are not so much hunted, but rather killed to avoid damage to fishing

gear. The seals thus killed are rarely collected or used, but left in the water. Unless the government establishes a programme to provide some financial compensation for seals brought in, fishermen are unlikely to try and market the product. It is not their core business and collecting, processing and marketing channels are absent. The amount of investment needed to establish these is not justified by potential benefits.

A potential impact of the Regulation may be that the Scottish Government develops a marine resources management system that would comply with article 3.2b) to reduce the waste of seals by making use of the EU market share opening up as a consequence of the loss of this share by the commercial hunt in notably Canada. Although we do not believe this is a very likely scenario, it is one that may warrant some encouragement, as it reduces the wasteful killing of seals – which is likely to continue regardless of the Regulation, as the product is not traded. Encouraging such practices would include a more flexible and less costly compliance system as well as allowing for payment to compensate costs to the fishermen.

So a small potential of increased trade under a flexible traceability system related to 3.2b) exists for Scotland, with negligible effects on employment, income or distribution for any of the options.

Rest of EU

While no other EU countries⁴² are engaged in the seal hunt, some are engaged in the processing and/or trade of seal products, or in retailing and are thus also affected by the Regulation and the various options for a traceability system. This concerns principally Denmark, Germany and Italy. The first two countries are expected to become more integrated with the Greenlandic hunt and trade, while international trading and processing of products derived from the commercial hunts in Canada and Norway will probably be diverted to Canada, Greenland, Norway or the Far East. With the latter being the main market – especially with the collapse of the Russian market – a general shift of the industry towards this continent is likely to take place. Given the low value of product and trade, this is would have only a very slight, negative impact on EU employment and income. This effect is expected to take place regardless of the option for traceability, but may be more pronounced in case of option 3, as it would require processors to set-up internal traceability systems and for some the small amount of product is unlikely to justify the necessary investment to do so, implying even eligible product would not be traded.

Resolving the issue of transit and processing is obviously an important aspect of potential impacts for these two countries.

Italy (and to a lesser extent Spain and Greece) still makes some use of seal fur in its high-end designer wear production. It is unclear to which extent this industry will make a shift towards sourcing its product from eligible sources only. Some of the interviewees have argued that the ring seal, commonly hunted by the Inuit, is less popular with fur traders and retailers of fur clothing than the

⁴² With the exception of the Kihnu community on the Estonian Kihnu Island.

harp seal. Assuming this shift is possible, these countries would not be too heavily affected as the Greenlandic hunt and trade could easily cover EU demand for fur skin.

In terms of consumer effects, the three options clearly represent different levels of transparency for the consumer, with the third option having the biggest positive impact as it provides a very credible and robust system for providing the consumer with accurate information and labelling. Although the second option is also considered fairly robust, it is not as visibly robust to consumers, unless voluntary schemes are developed to label Inuit products.

Consumer choice is reduced, as seal oil is unlikely to enter the EU market following the implementation of the Regulation. The more strict option 3 could make this a more permanent feature, as it reduces the likelihood of investments in collection of blubber from eligible sources.

The non-profit / non-commercial aspect of the Regulation, especially the way it would be upheld in option 3, could lead to falling market prices of seal products for consumers, which suggest less likelihood of reselling for profit. It would, however, be hard to check this kind of reselling.

At the EU administrative level, finally, the different options will, of course, also have different implications, with the first requiring the least costs and procedures, the second being more costly but not necessarily increasing administrative burdens, while the third option will be more costly – although relatively similar to option 2 – with more negative implications for the administrative burden of public authorities.

6.1.1 Summary of impacts across countries and per option

As indicated in the analyses above, we expect some shifts of trade and activities related to the sealing industry to take place across countries.

It is likely that only Greenland will be able to make the investments needed to make use of exemptions, as the scale of the Canadian Inuit hunt is too small and not as centrally organised as that in Greenland (Canadian Inuit hunt essentially uses the sales and marketing chains of the commercial hunt, implying it would need to invest heavily in separating its Inuit products from the rest). For buyers and producers alike the investments are not likely to outweigh the benefits due to the limited amount of products concerned. Moreover, the Greenlandic trade is more than enough to cover EU demand by itself. The more stringent the implementing rules (i.e. the traceability system) the more likely this would result in a diversion of all exempted trade to Greenland.

Secondly, we expect that the Regulation as such will result in a shift of trading and processing activities towards Canada/Norway and Asia, a shift contingent on the decisions with regard to the transit and processing questions, but also on the strictness of the traceability system and structural impacts of the ban on EU demand.

Table 6-1 summarises the main expected impacts of each option, while indicating the main affected countries.

Table 6-1 Summary table socio-economic impacts per option (option1 = baseline)

Indicator \ Impact	Overall direction and potential magnitude ^(A)		Likelihood of Impact occurring ^(B)		Most affected countries / regions / communities
Economic impacts	2	3	2	3	
▪ Changes in amount of eligible product entering the EU market	▲	0	M	M	Canada (+/-), Greenland (+)
▪ Changes in trade flows, competitiveness and investments	↕	↕	M	H	Greenland (+), Canada (-); EU – Denmark (+/-), Germany (-) (depends also on transit and processing issues)
▪ Operating / administrative costs and conduct business / SMEs	0	▲	M	H	Canada, Sweden, Finland.
▪ Government budgetary consequences / administrative burden.	▲	▲	H	H	EU and institutions in exporting countries, especially for option 3.
▪ Consumer effects	↕	↕	M	H	(+) transparency for consumers; (-) availability of seal oil products; (+) low priced products
▪ Third country effects (adjustment and compliance costs, trade flows, investments)	0	▼	M	M	Canadian Inuit (-); Norwegian Saami (-); Sweden and Finland (lesser degree)
Social impacts	2	3	2	3	
▪ Income and employment effects in the EU	0	-	L	M	
▪ Income, employment and subsistence contributions for Inuit / indigenous communities	0 / +	0 / -	L	L	Canada & Greenland; dependent on other factors as well.
▪ Distribution / regional effects (employment, income)	-	-	L	L	Canada
Diversion effects	2	3	2	3	Dependent on:
Processing facilities from EU to non-EU	↕	↕	M	H	Treatment transit and processing in implementing measures
Replacement of commercial product by Inuit product	▲	+	M	L	Range of factors, compliance costs important contributor
Development of Sustainable Marine Resources Management system	+	0	L	L	Canada, possibly UK (Norway already has, question whether eligible)

(A) Symbols used

- 0 insignificant impact compared with the base situation
 - +
 -
 - ▲
- positive, less significant impact
negative, less significant impact
positive, greater significant impact

▼	negative, greater significant impact. Merits serious consideration for mitigation
↕	positive and negative impacts likely to be experienced according to context
?	net effect uncertain

(B) Symbols used

L	Low likelihood
M	Medium likelihood
H	High likelihood

6.2 Comparison of options

A comparison of options is made based on the methodology as explained in our Approach and Methodology chapter. Below we discuss the three options in relation to their effectiveness, efficiency and consistency.

Evaluation of options – Effectiveness

- All options would ensure effectiveness in terms of the customs authorities being able to identify clearly eligible products
- Traceability would be most reliable in option 3, but given the short trade chain and limited number of players in the market, we expect options 1 and 2 to be similarly effective.
- Although the credibility of the third option in relation to non-compliant products being prevented from entering the market is superior to option 2, a good external auditing system should be able to achieve a similar effect, albeit more on a sample base rather than a continuous basis. Option 1 depends a lot more on goodwill and the credibility of possible mutual recognition agreements (MRAs) and is as such less 'independently' credible.
- As was elaborated in our assessment above, options 1 and 2 are more likely to offer the opportunity for Inuit communities in particularly Canada to make use of the exemptions provided in the Regulation, as it allows them to build on existing systems and limit costs of compliance.
- Option 3 provides most ensured transparency for consumers, while option 2 does this in a less visible way. Option 1 relies solely on the extent to which economic operators are capable of providing credible assurances and is thus less objective. Options 1 and 2 could be strengthened in terms of transparency if affected communities develop clear labels for their products.
- Enforcement of option 3 will require involvement from various certification bodies in different countries, which need to go down to the level of the individual hunter. In addition, an accreditation agency as well as EU officials and customs authorities will need to be involved. On the other hand, the chances of infringement are more limited in comparison to a more flexible system, which implies less 'policing' by Member States will be necessary. Information availability with regard to compliance with article

3.2b is questionable under option 3, especially the proof required for non-profit and non-commercial basis may be hard to obtain / not readily available. The more flexible option 2 – which focuses more on non-commercial in terms of maximum amount of product allowed, information availability is likely to be less of a problem. Obviously, option 1 requires least enforcement efforts.

Overall, option 3 is more effective, but the difference compared to option 2 lies mostly in the higher level of transparency and credibility of the system for the consumer, while in terms of meaningfulness of the derogation, option 2 clearly scores better. Option 1 is mostly effective in providing opportunities for affected communities, but is less strong in providing assurances for consumers.

Evaluation of options – Efficiency

- With regard to the ease of administration, option 1 is least burdensome, while option 2 is less burdensome than option 3 for almost all stakeholders involved. Under option 2, the number of institutions involved is limited to the Commission and an external auditing organisation. Under option 3 various certification and accreditation bodies are also involved, while it also is likely to place a higher burden on authorities, organisations in sealing countries eligible for trade with the EU under article 3 and hunters in terms of paperwork to be filled in and provided.
- The costs of a full CoC traceability system, as suggested under option 3, are likely to be higher than that of a flexible system with an external auditor, although the burden of costs is somewhat differently placed. Under option 2 a relatively higher costs burden will fall on the EU, as it will fund the third party external auditing system. Costs will depend on the frequency of auditing and the level at which this takes place. It is assumed this can take place at the level of the record-keeping authority. Under option 3 the cost burden on economic operators is likely to be higher, while costs to the EU are slightly less. Costs to all parties are lowest under option 1.
- A major consideration in terms of cost efficiency is the fact that the amount of products concerned is limited by any measure. For instance, even in the boom year 2006, total export of seal products from Canada to the EU was valued at a mere CAD 5.4 (roughly EUR 3.4 million). Setting up a full proof system may therefore not be justifiable in economic terms if costs greatly exceed value of actual trade, and a cheaper system is able to satisfy the so-called 80-20 rule.

Given the level of trade and burden on both economic actors and public institutions, option 2 is considered as more efficient than option 3, while both are less efficient than option 1.

Evaluation of options – Coherence / consistency

Option 3 involves a number of trade-offs across the three domains (economic, social and environmental) that make it less consistent than option 2. First, the actual amount of product traded and the limited number of players in global

trade flows imply that option 2 may be just as effective if we consider the 80-20 rule, while at a lower cost. At the same time it is more consistent with the social considerations embodied in the exemptions, i.e. to provide the Inuit with continued access to the EU market for their products.

As for environmental trade-offs, there are some concerns about the impacts of a very stringent system on small sealing countries with no Inuit / indigenous peoples such as Finland and Sweden and possibly the UK. If the requirements are such as to make placing on the market economically uninteresting altogether, hunting of seals as a form of pest control is likely to continue (the tension between fisheries and seals often remains), implying ongoing killing of seals, but discarding of the (by)products derived from the hunt.

Summary of findings and final ranking

The table below provides a final summary overview of our comparison of the three options for traceability. We have made a distinction between performance of the options on efficiency, effectiveness and consistency in relation to the two main exemptions in the Regulation, articles 3.1 and 3.2b.

*Table 6-2 Comparison 3 options**

Criterion	Option 1	Option 2	Option 3
Effectiveness			
• Feasibility of enforcement	1	2	3
• Extent to which system supports the intent of the Regulation with regards to derogations	1	1	3
• Extent to which system effective in ensuring non-compliant seal products do not end up on the EU market.	3	2	1
• Transparency for consumer	3	2	1
Efficiency			
• Ease of administration	1	2	3
• Cost efficiency	1	2	3
Consistency			
• The extent to which options are likely to limit trade-offs across the economic, social, and environmental domains.	2	1	3
Overall feasibility	2	1	3

Note: 1 = best, 2 = second best; 3 = least best

Overall, option 2 – minimum requirements for traceability with flexibility on implementation and third party external verification – is assessed as the most favourable option when compared with the other two options.

7 Conclusions and recommendations

7.1 Conclusions

This study on implementing measures for trade in seal products provides input to the Commission's process of developing implementing measures for the Regulation introducing a ban on placing seal products on the Community market taking into consideration how to create a traceability system accommodating the exceptions in article 3 of the Regulation.

Regarding article 3.2a, allowing import for personal use, the study has made reference to CITES and the implementation of the personal use provisions hereunder although the study does not recommend a certificate to accompany the good as this is not provided for in the Regulation. However, under article 3.2.a a somewhat stricter approach is necessary following the formulation of the article, hence also Internet trade and delivery by post/currier should be prohibited. For personal use, only a limited quantity of products should be allowed to follow the traveller, and burden of proof is to be on the traveller.

Regarding articles 3.1 and 3.2.b a traceability system must be put in place in order to secure that only seal products complying with the requirements stipulated in these articles enter the market. In order to do so an analysis of the articles and affected communities was made based on a desk study and an extensive stakeholder consultation process.

Qualification
of communities
falling under the
scope of the
Regulation

The study analysed the hunt in Alaska, Canada, Finland, Greenland, Namibia, Norway and Russia, as well as the killing of seals in the United Kingdom (Scotland) relative to articles 3.1 and 3.2.b. The analysis found that there are large differences between the hunts in the different countries and the possibilities of the products deriving from the hunts for qualifying under the Regulation.

Regarding article 3.1 it is likely that hunts from Alaska, parts of Canada and Greenland would qualify as would parts of the Russian hunt and hunt by the Saami population in North Scandinavia. Based on the findings of this study these are hunts traditionally conducted by Inuit or other indigenous communities. The third requirement of the article, contributing to subsistence of the community, is more controversial and based on information received during this study, this requirement seems to be met by most of the above-mentioned communities. In this study, we recommend analysing this article requirement at

community level, based on the formulations of the Regulation, and based on a pragmatic and non-discriminatory implementation of the Regulation.

Article 3.2.b, concerning by-product of sustainable management of marine resources allows placing on the market on a non-profit basis and in quantities not indicating a commercial motive contains several complex issues that must be resolved for the implementation of the Regulation. In line with the Marine Framework Directive, this study has taken an eco-management approach in interpreting the Regulation, and several of the countries covered by the study have integrated this in their management plans, or are in the process of making such policy. However, how to interpret a non-profit basis is a more controversial and complex issue, and the Commission must decide its approach to this. This study recommends adopting a bottom-up approach to this requirement.

The costs of sustainable management of resources can be divided into a number of elements, as some costs occur at the individual level (e.g. to the hunter) and other costs occur at regional or national levels. In the countries where sealing is conducted with the sole purpose of sustainable management of marine resources as in Sweden and Finland, the actual activity of killing the seals is conducted by hunters on a voluntary basis. The cost of this activity is likely to be much higher if state-employed hunters were to do the job as salaries would need to be included as well. Depending on future development of seal populations in various regions, a further need for population control might occur requiring a more formal system.

Products and trade flows

The Regulation covers all products, processed or unprocessed, derived or obtained from pinnipeds meaning that 1) Phocidae earless seals, or true seals, hereunder, but not limited to harp, hooded, ringed, common and grey seals; 2) Otariidae: eared seals, which are commonly referred to as sea lions and fur seals, hereunder but not limited to the south African fur seal; and 3) Odobenidae: walrus are covered by the Regulation. The main products deriving from these three species are made of the skin/pelt of the seal, the blubber or to a limited extent from the teeth and bones. The latter mainly concerns the walrus.

The main product group placed on the market for EU consumers are fur products. Another product group, are products containing Omega3 from seals. Seal oil contains the three most common Omega3 fat acids, DHA, EPA and DPA, and, in theory, all products containing these acids may contain seal derivatives. However, in reality seal blubber is only exported on a limited scale and processed by a few producers in Canada and Norway. The use of the oil is thus limited, and the most common products containing seal oil are Omega3 capsules and animal food, however, also this is limited to a few brands. Seal oil is also to some extent used in the pharmaceutical industry.

There is currently no formalised labelling scheme for seal products. Some producers have their own labelling schemes, e.g. Great Greenland. Moreover, seal oil is likely to be labelled as deriving from seal as it is generally more costly to produce than fish oil and is marketed for additional health effects. However, where oil is just one component in a product, like animal food or pharmaceutical product, labelling is more rare.

Currently, trade in seal products on the Community market is small and only covers less than 10 per cent of the total market for seal products, and the EU market has been declining for several years now. There may be many reasons behind this decline; the current financial crisis is one probable reason, and according to stakeholders, the negative impact of the discussion on the EU ban is another key reason. However, the EU is still important for transit and processing of seal products, and whether this can continue under this Regulation depends on the Commission's interpretation of the Regulation and application of the term transit.

Three key aspects of a traceability system

The minimum requirements for a traceability scheme could be formulated as a set of requirements that economic operators looking to import into the EU must fulfil, including three key aspects:

- Identification requirements
- Record and record-keeping requirements
- The ability to produce traceability reports (verification).

How traceability then is further organised depends on the kind of system put in place and the responsibilities allocated to the various parties involved. It appears that the basic elements needed for identification are often already in place, implying that the implementing rules could build on such existing elements.

In the context of the Regulation of trade in seal products, these minimum requirements should be interpreted as follows:

Identification requirements

The identification requirements comprise in principal three elements:

- The hunter (Inuit / indigenous hunter or licensed hunter for resource management purposes) – having a unique identification number
- The collecting station (designating the territory / geographical location)
- The product (essentially traces the transaction between the hunter and the collecting station).
- For the purpose of article 3.2b) it may be necessary to identify in addition or instead 'the hunt', in case it is not directly linked to the hunter, there is no collecting station or it does not cover the national level, but only specific regions.

Records and record keeping requirements

Record-keeping requirements include the ability to produce on demand records that contain the identification of the product. This should contain proof that the hunter and/or product fulfil the conditions of the Regulation. This record should be provided by the economic operator upon request. The way in which this is done could be left to the economic operator, or specified more clearly in the implementing rules.

Producing traceability reports

This is the most complicated part of the requirements, as it implies the development of some kind of form or communication that the exporter will send

along with the actual product. This should be a standardized form per country, which includes the principles of identification and record keeping. This could take different forms, e.g. a self-declaration, a declaration by a trade association or by a national or sub-national Government. It could also entail a certificate originating from a certification scheme.

Three alternative traceability systems

The study has identified three different options for a traceability system.

Option 1 Minimum requirements

The first option would involve the setting up of a system that covers the minimum requirements for traceability (i.e. for identification, record keeping and traceability reports) and leaves the implementation of the actual system behind this up to the economic operator. As such, it provides the economic operators in the various countries – which differ strongly with regards the nature and scale of the hunt and trade in seal products – with the flexibility to opt for the most efficient system in light of their circumstances and existing systems.

In this system, business operators hold primary legal responsibility for ensuring the compliance with the Regulation. The penalties for infringement would be developed by the Member States.

With respect to article 3.2b, an agreement between the EU and the Government of the relevant country wishing to trade under this exemption should be signed, in which the parties accept that the hunt complies with the conditions of article 3.2b. Such an agreement would have to be renewed after review / consultations every 3 to 5 years. This would suffice for Sweden and Finland, which have no commercial sealing industry. For Norway and Canada such an agreement would have to indicate specific hunt (e.g. the regions or communities in which it takes place) and the maximum amount of product to be landed / bagged per hunter as well as traded (to ensure scale is non-commercial). This information should be added to the identification requirements and records.

After the implementing rules are put in place and all minimum requirements thus clearly stated and in place, the EU could work in a cooperative manner with the various affected countries to arrive at a feasible and cost-effective approach to putting systems in place, which would be open to periodic checks to ensure credibility, in other words, avoiding strict policing with heavy penalty systems in favour of reaching mutual recognition agreements.

Option 2 Intermediate Option

The second option involves the formulation of the minimum requirements as in option 1, but includes a third party verification system, which comprises external compliance auditing by a designated third party.

The designated auditing body would perform regular audits and possibly on-the-spot checks (e.g. pre-shipment inspections). The auditing body would be funded by the EC. The main organisations to be audited will be the record keeping authorities to establish whether information provided is accurate and traceable. Failure to pass an audit would result in suspension of access to the EU market until compliance has been achieved to the satisfaction of the auditors.

Option 2 thus adds administrative costs – relative to option 1 – mostly for the EU, as it will fund the auditing. In addition, some additional compliance costs will have to be made by economic operators, while audits themselves will require time inputs for economic operators, hence some costs.

The auditing system adds credibility and robustness to the traceability system in comparison to option 1.

Option 3: Full chain of custody traceability scheme

The third option concerns a mandatory full chain of custody (CoC) traceability system, based on the standards set by the EU (the minimum requirements) and third party *certification* and *accreditation* (cf. the MSC CoC traceability system).

This implies that all operators in the chain must be certified by third party accredited certification bodies, which, in turn, must be accredited. The standards as contained in the Regulation form the basis for certification requirements. Next to chain traceability, internal traceability will be required as well for processing companies. The traceability system will cover the entire chain, up until the retailer, with a clear label for consumers to distinguish between products and their origin

To ensure compliance with article 3.2b under option 3, additional identification and record-keeping requirements apply. In addition to the identification of the hunter and hunt (as required under options 1 and 2) transactions would also have to be identified, e.g. through a system of sales permits and recording of time, location and price of the sale to ensure the non-profit / non-commercial nature of seal hunting and trading.

Option 3 will add substantial costs to all parties involved, but mainly to economic operators, in comparison to option 2 in order to obtain certification, permits, etc. Compliance costs will also be higher due to the need for internal traceability systems and high demands for record keeping.

The robustness and credibility of the system is further improved, while information and transparency for consumers is also high. The non-profit / non-commercial requirement under 3.2b is made more explicit and verifiable.

Impact assessment

The impact assessment (IA) concerns the assessment of the implications of three selected policy options for traceability. Thus, it focuses strictly on the implementing measures as related to the articles 3.1 and 3.2b and not on the impacts of the Regulation as such. The latter impact assessment was conducted in 2008 (COM(2008) 469 final; SEC(2008) 2290). The findings of this IA would remain valid for all non-exempted countries / regions / communities; in other words, in cases where the Regulation effectively functions as a ban.

As a number of issues with regard to the definitions of the various concepts in the Regulation and the interpretation of certain articles are not yet clear (they are still in the decision-making process) we have made a number of assumptions on these issues.

- 1 Transit and processing: We assume that any *transit* through the EU territory, which does not concern placing of the product on the market, i.e. making available for consumption against payment, will not fall under the Regulation. This entails principally auction houses serving as intermediaries between non-EU sellers and non-EU buyers as well as transport of goods from one non-EU country to another non-EU country, where EU territory is passed. However, we assume that products *processed* within the EU territory, even if not intended to be finally consumed there, will fall under the Regulation and thus must comply with article 3.
- 2 Second placing on the market: We assume that once products are placed on the market for the first time, they will not be traced further within the EU.
- 3 Goods for personal use of traveller and their family: The goods will have to be accompanied by the travellers, with a maximum of two items per traveller. Otherwise, the products must comply with articles 3.1 or 3.2b), the burden of proof for which will lie with the traveller.
- 4 Non-profit and non-commercial: For the purpose of the assessment, non-commercial is not defined in such a way that it precludes all placing on the market in exchange for payment, but defined as covering only costs, being non-systematic and of such a scale (e.g. number of seals per hunter or size of batches sold) that it is sufficiently likely that it does not concern a commercial, profit-making activity.⁴³ The conditions of non-profit and non-commercial are seen to apply to the hunt. As such, it is sufficient to guarantee that the derogation will not lead to additional hunting for reasons of commercial gain. The hunter is merely compensated for costs and allowed a limited quota per year.

As we illustrated, assumptions 2 and 3 have implications for a traceability system related to article 3.2b trade, and we will therefore also consider a stricter interpretation of these two issues, where the non-profit / non-commercial requirement are retained throughout the chain.

- 5 Financial crisis: The current economic crisis has had a particularly hard impact on the industry – as is the case with many other luxury goods industries. Thus, demand, sales and prices have all seen sharp decreases since 2007, and the market has shrunk considerably. When assessing impacts of the Regulation this distorting factor is important to keep in mind. Based on stakeholder views, we assume that markets will improve as the economy recovers, however, they will not return to the same levels as in 2006 – a year generally considered as a boom year for the industry. In other words, we assume that the ban will have a small negative impact on actual demand in the EU.

⁴³ As non-commercial movements of specimens are considered movements between registered scientists, scientific institutions, for museum specimens or exchange of herbarium specimens, etc. (source: EC reg. 865/2006). According to Govt of Australia, non-commercial use are: research; education; exhibition; conservation breeding or propagation; household pets; personal items and travelling exhibition.

The assessment of the main potential socio-economic impacts of the options is discussed on a by-country basis, allowing for the main impacts given the specific context / circumstances of the country in question.

We expect some shifts of trade and activities related to the sealing industry to take place across countries.

It is likely that only Greenland will be able to make the investments needed to make use of exemptions, as the scale of the Canadian Inuit hunt is too small and not as centrally organised as that in Greenland (Canadian Inuit hunt essentially uses the sales and marketing chains of the commercial hunt, implying it would need to invest heavily in separating its Inuit product from the rest). For buyers and producers alike the investments are not likely to outweigh the benefits due to the limited amount of product concerned. Moreover, the Greenlandic trade is more than enough to cover the EU demand by itself. The more stringent the implementing rules (i.e. the traceability system), the more likely this would result in a diversion of all exempted trade to Greenland.

Secondly, we expect that the Regulation as such will result in a shift of trading and processing activities towards Canada/Norway and Asia, a shift contingent on the decisions with regard to the transit and processing questions, but also on the strictness of the traceability system and structural impacts of the ban on EU demand.

7.2 Recommendations

The issue of the non-commercial and non-profit interpretation

For the purpose of a traceability system, the definition and interpretation of the non-profit and non-commercial clauses for trade eligible under article 3.2.b are crucial. In our view, and in order to retain a system that is manageable, it would make sense to place this requirement at the source, i.e. the hunt. The reason being that ensuring the hunt itself is non-profit (only costs are reimbursed) and non-commercial (a limited number of seals per person) would ensure there are no incentives to increase the number of seals hunted beyond what is scientifically determined. At the same time, maintaining a system of payment ensures that seal by-products are not discarded altogether. Finally, if seal products eligible under article 3.2b) are sold beyond local markets at below market prices, this would create a conflict with Inuit/indigenous products traded under article 3.1, which does not have to be non-profit and non-commercially based (although the subsistence argument precludes a true commercial trade). Such a dual approach to the same products should be avoided.

The issue of non-profit / non-commercial is also important with respect to traceability, because in case the requirement of non-profit and non-commercial is maintained throughout the chain, a more strict system would need to be put in place, as origin alone would not ensure compliance with the Regulation. Rather at every point in the chain, it must be certified that the transaction was non-profit / non-commercial. This would also require a lot of paperwork in terms of records to back up these claims, which would contain all cost items for

the product. A full CoC traceability system would seem more effective in this case than a more flexible approach (options 1 and 2).

It is recommended that such a system *only* be considered if the amount of product likely to fall under 3.2b) exceeds a certain threshold, i.e. if for instance Norway and Canada both try to claim eligibility under this article, adding a substantial amount of products to the market. In other cases, the issue of proportionality should be kept in mind. For instance, at this point the only countries that seem likely to meet the requirements of 3.2b) are Sweden and Finland. Products deriving from this hunt are either consumed by the hunter, purchased centrally by a public authority or sold to a local retailer (e.g. restaurant, shop). The retailer will sell on, locally and probably at a small profit margin. The amount of products involved does not represent a substantial part of their business. The public authority uses the products for research / scientific purposes and may under the Regulation also donate it for e.g. educational or medical purposes. In terms of seal oil, the quantities are too small to make this a viable business option to begin with (again, mere cost recovery for the hunter will mean he will not start hunting on a commercial scale, as he cannot afford to give up his day job). The only by-product that may then end up on commercial markets would be a small amount of fur skin. Considering the small amount of product it would make more sense to monitor this by-product through the auditing system in option 2 – ensuring quantities and prices do not indicate substantial profits for economic operators (middlemen like exporters). This should suffice for the small amount of product involved.

One system for all exemptions

Even in such cases, it is recommended to maintain *one system* for all exemptions, but to adjust identification and record keeping requirements, e.g. including additional requirements with regard to identification of the hunt as such for exemptions sought under article 3.2b. This should be based on an agreement between the Commission and the country concerned, which confirms acceptance of the hunt in said countries as complying with 3.2b conditions and possibly with specifications of maximum number of seal products.

Balance costs of implementation traceability system with size of EU trade in seal products

Given the small scale and value of the EU trade in seal products - even in a good year (i.e. 2006) the value of e.g. Canadian exports to the EU was less than EUR 5 million - it is important to strive for a balance between the size of the trade and the investment and compliance costs of a traceability system. Although the overriding issue is to provide confidence to the European consumers, the price of doing so needs to be in proportion to the size of the problem.

Recommended traceability system: Option 2

Based on our analysis of affected communities, products and trade flows, potential traceability options and their impacts, we recommend that the Commission consider a system built on minimum requirements with flexibility for the economic operator on how to implement the system, but including external third party verification to enhance credibility of the system. The effectiveness of such a system is considered good, while it is more efficient than a full CoC traceability system.

Agreements with trade partners

We also recommend the Commission come to agreements with respective countries on implementing measures, looking at possibilities for mutual recognition. Even opting for a full CoC traceability system, the Commission could leave some flexibility by allowing countries to organise their own certification, which could then be accepted through a MRA if considered compliant with the Regulation.

Annex 1 Stakeholders consulted

Stakeholders contacted

Interviews with stakeholders were conducted either face to face (F2F) or over the phone (ph). In some cases, e-mail communication was also used.

Type of stakeholder	Name of organisation	Contact Person	Type of Interview	City/Country	Consultant
Political representations	Greenland Representation in Brussels	Lida Skifte Lennert	F2F	Brussels	Tine/Birgitte
	Ministry of Fisheries, Hunting and Agriculture, Greenland	Amalie Jessen	F2F	Nuuk	Tine
	Ministry of Industry and Labour Market, Greenland	Kirsten Enequist	F2F	Nuuk	Tine
	Ministry of Fisheries and Coastal Affairs, Norway	Rune Dragset	F2F	Oslo	Tine
	Mission of Canada to the EU	Nathalie Dault	F2F	Brussels	Birgitte
	Department of Indian and Northern Affairs Canada	Christopher Duchenes, Brian Roberts	F2F	Ottawa, Canada	Floor
	Department of Foreign Affairs and International Trade Canadian	Garry Moore	F2F	Ottawa, Canada	Floor
	Department of Fisheries and Oceans Canada	Susan Waters	F2F	Ottawa, Canada	Floor
	Department of Environment, Nunavut	Simon Awa & Fe Wyma	F2F	Iqaluit, Canada	Floor
	Ministry of Agriculture Sweden	Helena Busk	PH	Sweden	Lasse
Inuit/Indigenous	ICC-Greenland	Aqqualuq Lyngø	F2F	Nuuk	Tine
	KNAPK, Greenland	Aksel Blythman	F2F	Nuuk	Tine
	ICC-Canada	Violet Ford	F2F	Ottawa, Canada	Floor
	Inuit Tapiriit Kanatami	Jim Moore, John Cheechoo	F2F	Ottawa, Canada	Floor
	Nunavut Tunngavik Inc. & Iqaluit Hunters and Trappers Organisation	Paul Irngaut, Glenn Williams	F2F	Iqaluit, Canada	Floor
	Arctic Athabaskan Council	Terry Fenge	F2F	Ottawa, Canada	Floor
	RAIPON	Pavel Vasilioevich Sulyandziga	Ph	Russia	Albina
Trade Industry	The Saami Council	Gunn-Britt Retter	e-mail	Norway	Tine
	International Fur Trade Federation	Jan Drøge, Schuman Associates Joe McHale, Schuman Associates Dr Barbara Sixt, Deutscher Pelzverband	F2F	Brussels	Birgitte/Tine
	Copenhagen Fur	Lars Skjoldegaard	F2F	Copenhagen, Denmark	Lasse
	North Bay Fur Harvester Auction	Ed Fergusson	Ph	North Bay, Canada	Floor
	Ta Ma Su Inc.	Bernard Guimont	Ph	Canada	Floor
	'Brættet'	Visited with Aksel Blytman, KNAPK	F2F	Greenland	Tine

Type of stakeholder	Name of organisation	Contact Person	Type of Interview	City/Country	Consultant
	Great Greenland	Henrik Estrup	F2F	Greenland	Tine
	Polargodt A/S	Johannes Berthelsen	F2F	Greenland	Tine
Other seal product manufacturers	Fortuna Oil, Norway	Frank, Haavik	F2F	Kristiansund , Norway	Birgitte
	GC Rieber Skinn, Norway	Anders Arnesen, Managing Director Per Henning Hamnes, MD GC Rieber AS Diederik Vandervennet (representing IFTF)	F2F	Bergen , Norway	Birgitte
	North Atlantic Fur Group	Michael Nielsen	F2F	Denmark	Lasse
	Nutrican	Stephen Lee	F2F	Toronto, Canada	Floor
	Greenland Lipid Solutions	Kim Lyberth	Ph	Greenland	Tine
Tannery	MPV Murrhardter Pelzveredelung	Kai Haacke, MD	F2F	Germany	Birgitte
NGOs	IFAW	Adrian Hiel	Ph/e-mail	Brussels	Tine
	Humane Society International, Canada	Rebecca Aldworth	F2F	Canada	Floor
	Brigitte Bardot Foundation	Christophe Marie	Ph	Paris	Tine
	WWF	No information received	Ph	Brussels	Tine
	BEUC	No information received	e-mail	Brussels	Tine
	FACE (Hunting association)	Anders Gran	e-mail	Brussels	Birgitte

Participants - expert workshop

Organisation	Contact
German CITES Management Authority	Franz Böhmer Bundesamt für Naturschutz (Federal Agency for Nature Conservation)
NOFIMA	Kathryn A-M Donnelly
GC RIEBER	Frank Håvik General Manager
IFTF	Diederik Vandervennet Executive Director
TraceTracker AS	Jürgen Engemann
European traceability institute	Miodrag Mitic
GS1	Diane Tallard
Università degli Studi di Parma	Prof. Elena Maestri
EFSA	Dr. Oriol Ribó
DG.ENV	Hugo-Maria Schally Dorothee Convens Charles Pirotte
DG.DEV	Niels Tanderup Kristensen
DG.MARE	Eddy Hartog
DG.RELEX	Alexis Loeber
SEC.GEN	Jean Ferrière
DG.TAXUD	Alexander Blaha Iris Dahlke
DG.TRADE	Robert Bach Casanovas Bartosz Cieleszynski Tilman Anger
Legal Service	Jean-Baptiste Laignelot
COWI	Birgitte Holt Andersen Peter Madsen Floor Smakman

Participants – stakeholder meeting

Organisation	Contact
ICC Greenland	Enok Sandgreen Lene K Holm
ICC Canada	Chester Reimer
KNAPK	Pavia Nielsen Hans Pavia Rosing
International Fur Trade Federation	Diedrik Vandervennet Joe Mc Hale
IFAQ	Leslie O'Donnel
Humane Society International, Canada	Dr Joanna Swabe Mark Glover
Eurogroup for Animals	Rebecka Aldworth
Federation of Associations for Hunting and Conservation of the EU (FACE)	Dr Yves Lecocq Anders Gran
European Bureau for Conservation and Development (EBCD)	Despina Symons Melanie Laimaison
European Food Safety Agency (EFSA)	Dr Oriol Ribó
DG TRADE	Anne Tidemann
DG MARE	Eddy Hartog Zusanna Bieniuk
DG RELEX (CPH)	Fernando Garces de Los
DG TAXUD	Karlheinz Kadner
DG DEV	Niels Tanderup Kristensen
DG ENV	Hugo-Maria Schally Dorothee Convens Jaime Reynolds
COWI	Birgitte Holt Andersen Floor Smakman

Annex 2 Canada mission

The field visit to Canada took place from 4 to 9 October 2009 and was conducted in Ottawa (Ontario), Iqaluit (Nunavut) and Toronto (Ontario).

Unfortunately, due to an unexpected change in schedule and logistical constraints, it was not possible to conduct all interviews face to face. Therefore, some interviews were conducted over the phone, in the week after the field mission.

Stakeholders consulted

The table below provides an overview of the Canadian stakeholders thus consulted.

Interviews for mission to Canada

Organisation	Interviewed	Meeting
Department of Indian and Northern Affairs Canada	Christopher Duchenes	05-10-2009
Department of Foreign Affairs and International Trade Canadian	Brian Roberts, Garry Moore	05-10-2009
Department of Fisheries and Oceans Canada	Susan Waters	05-10-2009
Arctic Athabaskan Council	Terry Fenge	05-10-2009
Humane Society International, Canada	Rebecca Aldworth	05-10-2009
Department of Environment, Nunavut	Simon Awa & Fe Wyma	07-10-2009
ICC-Canada	Violet Ford	08-10-2009
Nunavut Tunngavik Inc. (NTI) & Iqaluit Hunters and Trappers Organisation (HTO)	Paul Irngaut, Glenn Williams	08-10-2009
Inuit Tapiriit Kanatami (ITK)	Jim Moore, John Cheechoo	09-10-2009
Nutrican	Stephen Lee	09-10-2009
Telephone interviews conducted after field visit		
North Bay Fur Harvester Auction	Ed Fergusson	14-10-2009
Ta Ma Su Inc.	Bernard Guimont	14-10-2009
Fur Institute of Canada	Rob Cahill	21-10-2009

6

Background and policy context

Today the Canadian commercial seal hunt is by far the largest in the world, with an annual harvest of 200,000-350,000 seals.

History

Seal hunting has a long history in Canada, both in the North and in the Atlantic East Coast, where evidence was found that 4,000 years ago Archaic Indians on Newfoundland's Great Northern Peninsula hunted seals.

The commercial hunt started much later with the arrival of the Europeans. In the early 16th century Basques, Portuguese, French, British and Acadians begin to hunt seals off present-day Atlantic Canada. Early fishing settlers, like their descendents today, often used sealing as a means to earn income in the off-season. By the **middle of the 18th century**, European demand for oil and skins

led to the development of a **commercial seal fishery**, which by the 1850s had developed into an important industry, second only to the cod fishery in Newfoundland's economy. The annual hunt at the time was worth between CAD 1 and CAD 1.5 million in Newfoundland.

Heavy seal hunting causes concerns for the population in the early 20th century, however through the world wars (when sealing ships were in wartime service) and the Depression the hunt declined substantially and only resumed in full by the late 1940s. The hunt quickly again becomes profitable, primarily because of demands for fur and leather. An average of 310,000 seals is taken annually off the East Coast.

Between 1950 and 1970, the northwest-Atlantic harp seal population declines by 50 per cent. Due to this decline and spurred by public outrage, the government implemented the Seal Protection Regulations in 1965, setting annual quotas, dates of the hunt, controls on the methods of killing, and requiring, for the first time, that vessels, aircraft and sealers be licensed.

In 1983, the European Community, which had been importing close to 75 per cent of Canadian seal pelts, implements a ban on products derived from white-coat harp seal pups and blue-back hooded seal pups, which is eventually extended indefinitely. The market for sealskins collapses. By 1987, Canada banned the commercial hunt for whitecoats and bluebacks as well.⁴⁴

The 1965 Seal Protection Regulations were combined with other Canadian marine mammals regulations in 1993, into the Marine Mammal Regulations. In addition to describing the use of the rifle and hakapik, regulations also state that every person "who fishes for seals for personal or commercial use shall land the pelt or the carcass of the seal."

Economic importance

Although the importance of the sealing industry to the Canadian economy and exports is very limited today, the Canadian government argues the hunt brings badly needed income to its coastal communities, which earned about CAD 16.5 million in 2004, primarily from pelt sales to Norway, Denmark and China.

Among the Inuit communities, which are not involved in the commercial *hunt*, sealing contributes to subsistence, both economically and socially.

Policies and regulations

The seal hunt management and monitoring falls under the responsibility of the Department of Fisheries and Oceans (DFO). As explained in section 2.2.1, the Canadian commercial seal hunt is governed by the MMR and multi-year Atlantic Seal Hunt Management Plans, which establish quota for three of the seal species hunted in Canada, included the harp and hooded seals (main seals hunted in the commercial hunt) and grey seals. For the other three species – ringed, harbour and bearded seals – no TACs or allocations are set.

⁴⁴ www.canadiangeographic.ca/Magazine/JF00/sealtimeline.asp

The Inuit hunt is not governed by a licensing and quota system as it takes place mostly above the 53°N latitude. Under the MMR and Management programme, Aboriginal coastal residents who reside north of 53°N latitude can continue to hunt seals for subsistence purposes or as determined by specific treaty rights without a license. They are required to comply with other regulations of the MMR, e.g. related to the ban on killing whitecoats and bluebacks.

Almost 50 per cent of Canadian Inuit live in Nunavut (23,000); Inuit make up 85 per cent of the population in this territory, and all communities are still actively involved in the seal hunt for subsistence. After the collapse of the markets in the 1980s, these Inuit communities appear to have been heavily impacted. Although there was an Inuit exemption under the ban and the Inuit did not as a rule hunt whitecoats and bluebacks to begin with, the collapse of prices affected the entire industry. Although not a main source of income for most communities, the hunt does contribute significantly to household and community income. The Government of Nunavut therefore started a support programme for seal hunters, which assists local hunters and trappers organisations (HTOs) in providing equipment, but also by buying seal fur skins and selling these on for auction.

“Sealskins are received from the hunters by the Government of Nunavut Conservation Officers, who grade the skins, determine the value to be paid to the hunters and prepare the skins for delivery to the auction house. [This program is] important to harvesters, as the funds are used to support active harvesting families and helps to purchase fuel, ammunition, and supplies needed to continue active harvesting. This activity supplies nutritious food, preserves traditional practices and contributes to Nunavut’s social, cultural, and economic well-being.” (Department of Environment, Government of Nunavut, 2009)

Main players and explanation of trade chain

Market conditions for seal products were favourable in 2005, and the total landed value of the Canadian harp seal hunt was approximately USD17.5 million - about a 7 per cent increase over 2004.

The following year, 2006, was an even better year. According to the Canadian Government, in 2006, Canada exported CAD18 million in seal products including CAD 5.4 million to the EU.

Value of Canadian exports of seal products (2006)

Exports of Canadian Seal Product (2006)			
	Exports to EU (M\$)	Exports to Non-EU (M\$)	Total Exports (M\$)
Seal oil/meat/pelts	5.41	12.58	17.99

Source: DFO, 2009

Although there is no exact statistics for all sub-products, it is clear that the bulk of export value of Canadian seal product is generated by the trade in raw fur-skins – accounting for more than 90 per cent of the total in 2006 (see table below).

Value of Canadian export of raw seal furskins to the EU

	2004	% of total	2005	% of total	2006	% of total	2007
EU Total	1,844,656	15.8	2,179,449	16.2	5,292,944	32.3	--
Others	9,821,219		11,235,764		11,101,697		--
Total (all countries)	11,665,875		13,415,213		16,394,641		--

Source: Statistics Canada

Note: 430170 - Code deleted in 2007 - After 2006: included in code 430180

Main players and trade chains differ per product. Most **seal fur skin** will find its way to markets via fur auction houses. Canada is home to three internationally attended, producer-owned auction houses; two in Ontario and one in British Columbia.

The biggest one, the North American Fur Auctions (NAFA) is located in Toronto (Ontario). NAFA's principal business is the sale of raw fur pelts at public auction. The pelts are received on consignment from producers of ranch-raised furs and harvesters of wild furs. The fur pelts are sold to fur garment manufacturers and fur pelt dealers worldwide. The Company is the largest fur auction house in North America, and the third largest fur auction in the world. It is likely that most seal skins from the commercial hunt go through this auction.

The second East Coast based auction is the Fur Harvesters Auction, located in North bay (Ontario). This auction only buys and sells ring seal skin and as such is a small player in the seal skin market – which is dominated by Harp seal skin. North Bay is also the auction through which the Inuit hunted seal skins are sold by the Government of Nunavut. In the peak years, this involved approximately 10,000 ring seal skins, however, more recently sales have declined.

"In January 2009, at the Fur Harvesters Auction in North Bay, Ontario, Nunavut was unable to sell any of their sealskins. The threat of the European Union ban (buyers were heard to reference "EU ban" on the auction floor) and the worldwide economic downturn are believed to have impacted market demand (.....) We are currently reviewing the market situation and considering options on future purchases and marketing of sealskins. For now, we will continue to purchase sealskins from hunters under the existing program." (Department of Environment, Government of Nunavut, 2009)

The Government of Nunavut has already paid the hunters for these skins (10,000 in total), while they are kept in stock at the auction at this moment, implying none of the costs can be retrieved. According to the auction a small share of the skins (approximately 30 per cent) was sold, however, they were sold back to Nunavut buyers (garment and footwear makers).

The Western Canadian Raw Fur Auction Sales Ltd. is located in Vancouver B.C. and does not appear of importance for seals skins, as it concentrates on fur

skins from other hunted and ranched animals in Western Canada (which has no seal hunting tradition).

According to various sources and interviewees, most seal skin is destined for export markets, with Asian markets being the most important (growth) markets. Russian markets have collapsed in the past two years due to the economic recession and devaluation of the Rouble, while the imminence of the EU ban in seal products in combination with the economic recession has depressed EU markets (EU buyers have been hesitant).

Some products also move directly from the harvest stations to buyers overseas. An important market for Canadian Seal fur is Norway and one of the main buyers there is Rieber. In fact, Rieber buys the majority of its seal skin (and seal blubber, see below) in Canada, primarily from harvest stations in Newfoundland. Rieber has production facilities in Newfoundland, where the furs are tanned and dressed. All tanning and dressing of fur skins takes place in Canada. Thus for the seal fur Rieber Norway only acts as marketing and sales hub.

Considering these figures, it is important to note that even if all Inuit product were to be exported it would constitute only an estimated 1-3 per cent of total export. In reality this share will be substantially lower as Inuit products appears to be less traded internationally than seal products from the commercial hunt – scale economies play a big role in this respect.

The seal fur skin trade is probably the best recorded of all seal product trade chains, as it constitutes the main product traded and is often traded in raw form, implying it is captured by trade statistics. Other products are harder to trace in export statistics as they are usually further processed and grouped under broader export product categories.

The market for **seal oil** appears to have increased in recent years. An increasing percentage of seal oil is finding its way into areas other than the traditional marine and industrial oils. As the importance of omega-3 nutritional supplements becomes more widely accepted, the range of products derived from seal oil will likely continue to grow.

Seal Oil is derived from seal blubber, a by-product of sealing, which account for approximately 30- 45 percent of the total weight of the seal. There are a number of companies in Canada and Europe (Norway) that buy the blubber from the harvesting stations and process it into oil. The first processing mostly takes place in Canada, close to the actual blubber source (the seal harvesting stations in Newfoundland and Labrador). For instance, Norwegian-based Rieber buys the raw skin with the blubber from the harvest stations in Newfoundland processes it into crude oil at its Canadian facilities, after which it is shipped to Norway to be refined into high quality seal oil.

The refined oil is then sold on to intermediate companies, such as health food companies (nutritional supplements) and pharmaceutical companies. The main markets for this end product are Norway, South Korea, China, and Japan.

A number such manufacturers are based in Canada, which is one of the major exporters of seal oil based nutraceuticals. Canadian Omega3 manufacturers include Canomega Industries Inc., Gateway Maritimes Inc., DPA Lifestyles, Bodyvite Industries Inc., Gateway Omega Inc., DPA Industries⁴⁵ and Nutrican. The product is then moved to consumers by these manufacturers directly or through a network of distributors, which often have representative offices in Asia.

Main markets for these products are in Asia (Korea, China, Japan), while there appeared to be interest for these products in several European markets as well (e.g. Sweden, Denmark, Finland and Germany) but the looming ban on seal products has more or less stunted the market here.

As far as could be traced, seal oil from Inuit hunted seals does not enter into the markets at the moment. This is attributed mostly to logistical constraints related to the areas where Inuit reside and hunt. Blubber from seal from these areas is more difficult to collect - as the hunting is relatively small scale and spread both over the year and geographically, making the blubber expensive to collect. Development of a seal oil industry in Nunavut has been explored but was considered not economically viable for these reasons.

The **seal meat** market is small. According to DFO “The amount of seal meat landed in 2005 was extremely low, in part because the hunt was mainly directed at younger animals (beaters), which have very little recoverable meat.”

It is unlikely that Inuit trade seal meat (other than perhaps in barter trade in the Northern communities) as it is mostly for own consumption or sharing within the communities.⁴⁶ Again, the cost of transportation and marketing are prohibitive as well, making it an economically uninteresting product to market at this point.

Other seal products, such as **seal flippers and seal organs** are clearly seen as by-product (even of the commercial hunt) and almost exclusively sold on the local market. For instance, there has always been a local market for seal flippers in Newfoundland. The commercial market is limited and non-commercial personal use may represent the greatest consumption. The market for seal organs has been extremely low for a number of years, with purchases falling below CAD 600,000 in 2005 (DFO, 2009).

Both organs and flippers from Inuit hunted animals do not appear to make it onto the markets in the South, let alone international markets.

It must be noted that the exemptions under the Regulation could open up possibilities for marketing of other seal products – e.g. heart valves and seal oil - as

⁴⁵ Source: Website Canadian Association of Omega3 Manufacturers (<http://www.omega3canada.ca/founders.html>)

⁴⁶ Inuit prefer to hunt Ring seals in large part because of their meat, which is considered superior to the meat of notably harp seal. This also explains why most Inuit seal skin that ends up on markets concerns ring seal, underlining the subsistence purpose of the hunt.

Existing traceability systems and potential systems for new Regulation

obtaining them from non-Inuit sources in Canada will no longer be possible for EU buyers and this may make Inuit sources economically more interesting.

At present, no specific traceability system for seal products is in place in Canada, although there is a licensing system, which registers the hunters. The licensing system does not apply to hunters above 53°N, however, which comprises the majority of Inuit sources.

North American Fur Auctions and North Bay Fur Harvesters Auction, are part of the Origin Assured programme. The programme is administered by the International Fur Trade Federation (IFTF). The majority of the world's fur is sold through international auction houses. International auction houses that are partners in the OA programme have been responsible for sorting OA fur, ensuring invoices clearly identify that it is OA and for distributing OA™ labels. Only OA fur sold through participating auction houses can attract the OA mark. Independent monitoring is a key feature of the programme.

OA labelling is at country level: To become OA™ approved, a country must have regulations or standards governing fur production in force. With respect to seal fur, the main seal producing countries are Canada, Greenland and Norway, which all comply with the OA requirement that the seal hunt is supported by adequate regulations, monitoring and enforcement. The OA™ labels and invoices accompany each other through the supply chain to the retailer. The OA supply chain is audited and monitored by an independent agency to ensure compliance.

However, the OA label does not distinguish between hunting sources within countries, i.e. it does not allow for tracing back to Inuit/indigenous or other origins of the product.

With regard to seal oil products, Health Canada administers a product licensing scheme that covers such products if they are part of natural health products (i.e. omega3 nutritional supplements). All natural health products require a product licence before they can be sold in Canada. Obtaining a licence requires submitting detailed information on the product to Health Canada, including: medicinal ingredients, source, potency, non-medicinal ingredients and recommended use(s). Once a product has been assessed and granted market authorization by Health Canada, the product label will bear an eight digit product licence number preceded by the distinct letters NPN (which stand for Natural Product Number), or, in the case of a homeopathic medicine, by the letters DIN-HM (which stand for Homeopathic Medicine Number). This number on the label will inform consumers that the product has been reviewed and approved by Health Canada for safety, efficacy and quality.⁴⁷

These labels are intended for the consumers in the local market, and allow for identification of seal oil in the products. Although it is not an export label per se, the information is already available and could be useful for a traceability

⁴⁷ Source: Health Canada (www.hc-sc.gc.ca/dhp-mps/prodnatur/about-apropos/index-eng.php#pl).

system as well, if usefully expanded to include information on whether a product is from Inuit sources.

Inuit product – essentially only seal fur skin - from Nunavut is traded through Government, so centralised, which offers potential for certifying and labelling at the source. Inuit product (fur skin) is quite recognisable as it is dried and processed traditionally and not industrially.

There is already a voluntary labelling system for Inuit arts and crafts, which could be useful as an example of a voluntary initiative that may be expanded upon for the purpose of a traceability system under the Regulation. With respect to seal product, local HTOs and the Land Claim Agreement Corporation could play an important role, as they can quite easily certify that the product is indeed from Inuit sources.

Annex 3 Greenland mission

Stakeholders consulted

The mission to Greenland took place from 29 September to 5 October 2009. The stakeholders consulted are listed in the table below. Each of the organisations were interviewed individually and a common meeting between ICC, Department of Fisheries, Hunting and Agriculture, KNAPK and Great Greenland was organised to discuss possible solutions for a traceability system based on the different perspectives and angles of the stakeholders.

Interviews conducted during mission to Greenland

Organisation	Interviewed	Meeting
ICC Greenland	Aqqaluk Lyngø, President	29.09.2009
Department of Fisheries, Hunting and Agriculture	Amalie Jessen, Deputy Minister	30.09.2009
Ministry of Industry and Labour Market	Kirsten Enequist	01.10.2009
KNAPK - Kalaallit Nunaanni Aalisartut Piniartullu Kattuffiat	Aksel Blythman, Consultant	01.10.2009
Polargodt Upernavik A/S	Johannes Berthelsen, Managing Director	01.10.2009
Meeting with ICC, Department of Fisheries, Hunting and Agriculture, KNAPK and Great Greenland	Amalie Jessen, Deputy Minister	02.10.2009
Great Greenland	Henrik Estrup, CEO	02.10.2009

Background and policy context

The Regulation mentions specifically that the ban should not affect adversely "Inuit communities engaged in the hunting of seals as a means to their subsistence". According to Ministry of Fisheries, Hunting and Agriculture, about 90 per cent of the total population in Greenland is Inuit and "maintains a lifestyle connected to the sea and the harsh nature and environment". Hunting seals is part of this, and is a part of everyday life and culture in Greenland according to the Finn Karlsen, Minister of Fisheries, Hunting and Agriculture (Management and utilisation of seals in Greenland).

Deputy Ministry, Amalie Jessen, expresses strong concerns about the ban and is strongly against it and any form of restriction on the opportunities for Greenland to continue traditions and way of living (interview Nuuk, 30/09/09). This is supported by other stakeholders consulted, hereunder ICC-Greenland who consider the ban an economic sanction against small arctic communities who have no other means of income (e-mail ICC-Greenland, Aqqaluk Lyngø 28/08/09). Both the ministry and ICC emphasised during interviews that they regard the Regulation as discriminating as there are special rules for "Inuit and other indigenous communities" with specific reference to the UN declaration on the rights of Indigenous Peoples. It was stressed that any indigenous affiliation, hereunder Inuit, must be based on self-determination. This is also recognised internationally by i.a. the UN declaration on the rights of Indigenous Peoples (art 3) and the ILO convention⁴⁸. Also, the Charter of the Inuit Circumpolar

⁴⁸ Convention 169 from 1989 /the indigenous and Tribal Peoples Convention art. 1

Council⁴⁹ highlights the principle of self-determination, presenting a definition of Inuit which closely resembles the definition in the Regulation.

The Ministry does though recognise that under the situation, accepting exemption from the ban is the best option for the Inuit. However, highlighting the difficulties and controversies in trying to define Inuit or Indigenous (interview Nuuk, 30/09/09).

All stakeholders consulted during the mission to Greenland expressed concerns about the ban and highlighted that the ban is currently implementing itself due to uncertainty in the market. Great Greenland, the main exporter of seal products from Greenland, expressed a need for certainty and is looking for regulatory stability.

Great Greenland is currently the main exporter of seal products in Greenland, and they export skins from harp seal primarily and to a lesser extent ringed and other seal species. From 2004 to 2007, their export was reduced from 84,719 skins to 43,601 skins in 2007. According to stakeholders interviewed in Greenland, the company now has about 200,000 skins in stock.

Nevertheless, Great Greenland continues to purchase skins from the hunters as this is subsidised by the self-rule through an annual service agreement. In 2009, the service contract was set at about EUR 715.000 (DKK 5,360,000) for running the purchasing system and the purchasing subsidy amounted to EUR 2.779 million (DKK 20,845,000) (decision from the Landsstyre 29 December 2008⁵⁰).

Also Polargodt Upernavik A/S is trading seal skins and has a plan also to purchase meat and blubber for export (Johannes Berthelsen, Nuuk, 01/10/09). Polargodt is currently not operating under a service agreement with the self-rule.

Main players and explanation of trade chain

Great Greenland buy skins directly from the hunter through a network of purchasers in accordance with the purchasing instructions agreed upon between Great Greenland and KNAPK - the Fishermen and Hunters Organisation.

The purchaser registers how many skins of which species each hunter brings in, together with the hunter's social security number (civil registration number) in a standard form. On a daily basis this form, comprising information on what is purchased that day, is faxed to Great Greenland, and this forms the basis for payment of the skins. The purchaser does thus not pay the hunters directly. Great Greenland pays the hunter and the skins are entered into Great Greenland's inventory system as being in stock in the relevant settlement or town.

⁴⁹ Art 6 Inuit means indigenous members of the Inuit homeland recognized by Inuit as being members of their people and shall include the Inupiat, Yupok (Alaska), Inuit, Inuvialuit (Canada), Kalaalit (Greenland) and Yupik (Russia).

⁵⁰ http://dk.nanoq.gl/emner/landsstyre/referat_fra_landsstyret/referat_fra_landsstyret/2009/02/29_12_08.aspx

On a regular basis, the skins are shipped to Great Greenland's facilities in Qaqortoq, South Greenland, where they are tanned and prepared for sales, either in Greenland or through an agent in Denmark. When exporting the products, the Movement certificate EUR1 and an export declaration from Greenland are drawn up and sent to customs authorities in Denmark.

All furs are manufactured in Great Greenland's facilities in Qaqortoq. Accessories are mainly manufactured in Turkey or Greece. (Letter to General Director Falkenberg from Amalie Jessen, 22 September 2009)

Concerning Polargodt Upernavik A/S, the trade chain is somewhat different. It is located in Upernavik and buys skins from local hunters. The skins are sent to Denmark for tanning, and then returned to Greenland for sales locally. They do hope to export the skins for sale in the future (Johannes Berthelsen, Nuuk, 01/10/09).

Existing traceability systems and potential systems for new Regulation

As mentioned above, each skin is registered when purchased so it is possible to trace back the number of skins sold by each hunter, per species. Moreover, all Great Greenland skins are automatically measured, stamped for size, quality, production code and the Great Greenland logo.

Furthermore, products from Great Greenland are affixed a label containing a bar code, containing the above-mentioned information and the text: *Traditional hunt conducted by INUIT communities for subsistence purposes*. Great Greenland, moreover, encloses a statement with their products, issued by the Directorate for environment and nature, stating that the seal products are legally hunted and “in line with CITES”. This statement is included although the seal species in question is not listed under CITES, and it is thus not required in any way. However, it is included in order to assure customers that buying the products does not breach the CITES convention. A similar statement could be issued to certify compliance with article 3.1 of the Regulation (Amalie Jessen, Nuuk, 02/10/09 and Henrik Estrup, Nuuk, 02/10/09)

The stakeholders interviewed in Greenland, suggest a solution where a traceability system is based on trade codes, and suggest adding an extra digit to the existing codes for seal products as to indicate that the product has Inuit origin. In order to export seal products, an export licence issued by the Ministry of Commerce is needed, and the Greenlandic stakeholders assess that the suggested solution will require a minimum of additional administration compared to the current system. There is broad agreement among the stakeholders interviewed that the system should be based on customs declarations and follow the existing paper trail (Discussion at stakeholder meeting 02/10/09). Particularly Great Greenland emphasised that the system should not put administrative burdens on their customers and partners downstream as this may further impede the market (Henrik Estrup, Nuuk, 02/10/09).

In order to implement and enforce the system locally, the Ministry of Fisheries, Hunting and Agriculture suggests issuing a directive in line with the EU Regulation and the Commissions implementing rules. In order to obtain the export

licence the exporters must demonstrate that they fulfil the requirements to export to the EU under article 3.1 of the Regulation.

Annex 4 Sustainable management of marine resources

Step 1: Purpose of the hunt is sustainable management of marine resources

Alaska

Years of commercial seal hunt in the Berings Straits have had a serious impact on the seal population in these parts of Alaska. Commercial harvests of northern fur seals continued on their breeding islands until the 1980s, when the species was listed as depleted under terms of the Marine Mammal Protection Act.

After a period of greater regulation and population stability in the 1980s and 1990s, northern fur seal numbers began declining again about 10 years ago. According to the National Oceanic and Atmospheric Administration NOAA), the Pribilof population alone has fallen by an annual rate of 5.2 percent since 1998.⁵¹ Reasons for this decline are sought in, for instance, the drowning of seals in driftnets of commercial fishing vessels (by-catch), entanglement in marine debris, parasites and disease, pollutants, predation and less nutrition (NOAA).

Step 1: Purpose/rate of hunt

Canada

As indicated above, seal hunting in Canada is divided into three main types: organised commercial seal hunting, personal use hunt, and traditional aboriginal/Inuit seal hunting (DFO, 2008b). The commercial seal hunting and personal use seal hunting are regulated by law, whereas Inuit seal hunting is not regulated to the same extent. However, the general prohibitions with regard to seal hunting regulated by the Marine Mammal Regulations apply to aboriginal hunting as well. These prohibitions concern specifically the hunting of harp and hooded seal pups.

The Canadian seal hunt is regulated under the Fisheries Act (1993-186)⁵², defining marine mammals as Fish under the given legislation (Art. 2.3.a) the Marine Mammal Regulations (SOR/93-56)⁵³ (MMR). The latter application applies to management and control of fishing for marine mammals in Canadian waters and in the Antarctic (Art. 3).

Canada considers seals to be renewable natural resources and its management plan thus aims at sustainable management of this natural resource. It does not include an eco-system based management plan.

Research has been done on the effects of seal population on fish stock, but results appear inconclusive. The specially established Eminent Panel on Seal Management reviewed the information available on fish consumption by seals in 2001 and concluded that "understanding the impact of seal predation on fish populations is a difficult problem as it involves understanding complex ecosystem interactions. (...) although seals consume large amounts of fish throughout Atlantic Canada, there was much less evidence that this predation was having a major impact on the recovery of most commercial fish stocks. The Panel noted

⁵¹ <http://www.adn.com/seals/story/659380.html>

⁵² [Fisheries Act P.C. 1993-186 4 February, 1993](#)

⁵³ [Marine Mammal Regulations, SOR/93-56 \(MMR\)](#)

that many of these stocks would probably take a long time to recover to fully exploitable levels, even if all seal predation is removed".⁵⁴

Finland

As it is also the case in Norway and Sweden, reducing the negative implication of seals on fisheries is an important factor in the Finnish seal hunt. Ringed seal and grey seal are game species in the Baltic Sea region of Finland. However, only grey seal is hunted, while no licences are issued for ringed seal (Game Management District of Swedish Osterbithnia, 2008).

Due to decreasing populations, the seal hunt was closed in the 1980s. In 1998, the hunting was reintroduced as a result of an increasing grey seal population (MMM, 2007a), and new licences were issued under Finnish legislation.

Step 1: Purpose is sustainable marine management

The Finnish Ministry of Agriculture and Forestry informs that 800-1000 hunts of grey seals are licensed annually with a corresponding 400-500 grey seals hunted. The estimated population is 25,000-30,000 seals with a yearly increase in the population by 10 per cent. The main reasoning behind the Finnish seal hunting is a matter of resource management.

Step 2: Sold on non profit basis

We have found no indication that this the seal hunt takes place on a commercial basis or that the products are being placed on the market in a repetitive way, as most by-products are used on a private basis or sold in the local community. This is confirmed by the Ministry of Agriculture and Forestry that explains that no seal products are to be found in large-scale retail in Finland. Furthermore, they explain that the equipment for the hunt is extremely costly, and after hours of hunt, you are most likely to have hunted a maximum of three seals and most often only one seal. On this basis, the hunt is not financially profitable for the hunter.

Greenland

Step 1: Purpose/rate of hunt

Although Greenland does have a management plan (The Greenland Home Rule, Department of Fisheries, November 2006), it does not include a specific plan for the management of the seal population, and there is no quota determining how many seals can be hunted each year. The population is surveyed through the NAMMCO cooperation and as the population currently is abundant according to Greenlandic authorities, national quotas are not deemed necessary (Directorate for Fisheries, Hunting and Agriculture, 15/10/09).

Namibia

Step 1 Purpose of the hunt

According to the Ministries of Fisheries and Marine Resources (MFMR), the Namibian government's main objective for the fisheries sector is to utilize the country's marine resources on a sustainable basis and to develop industries based on them in a way that ensures their lasting contribution to the country's economy and overall development objectives. Seals are considered a natural

⁵⁴ www.dfo-mpo.gc.ca/fm-gp/seal-phoque/reports-rapports/mgtplan-plangest0610/mgtplan-plangest0610-eng.htm#re7

resource from which Namibians can derive economic benefits – consumptive and non-consumptive (MFMR, 2008).

Step 1: Purpose/rate of hunt

Norway

As mentioned above, there are three types of seal hunt in Norway: the large-scale hunt in the West and East Ice, the coastal hunt and the hunt in Jan Mayen and Svalbard.

With respect to the West and East Ice hunt - according to the Norwegian Government, to maintain seal stocks at a reasonable level, it is necessary to harvest them, implying that all hunting is done for sustainable management reasons.

The quotas are determined based on scientific advice from the International Council for the Exploration of the Sea (ICES), the Northwest Atlantic Fisheries Organisation (NAFO) and the Institute of Marine Research in Norway. These recommendations are used as a basis for drawing up a multi-species management regime, which takes into account, inter alia, how the harvesting of seals will affect other species. As the effect of seals on other species is taken into account when deciding the TAC, this indicates that the management system is building on eco-management principles.

The hunt is subsidised by the state, and according to the national budget for Norway 2009-2010 it is necessary to subsidise the Norwegian hunt in order to secure that the quotas are filled. This is, according to the Norwegian government, necessary for balancing the eco-system in the sea (p. 134),⁵⁵ indicating that the hunt is not conducted for commercial reasons. The fact that the quotas are determined based on eco-system management principles indicates that products sold from the hunt concern by-product.

The objective of the coastal hunt is to secure that the seals are sustainably utilised as a renewable resource and that the populations are regulated based on ecological and socio-economic consideration (FOR-1996-05-06-414 art. 1)⁵⁶.

Work is ongoing in order to make new management plans and long-term management objectives are currently being finalised. Until these are presented, the results of this step are still inconclusive.

The hunt on Jan Mayen and Svalbard is regulated by the Governor of Svalbard and is very limited. The objective of utilisation of natural resources on Svalbard is to secure the natural productivity of the species, biodiversity and that the way of life is maintained and that the wild nature of Svalbard is secured for future generations. Within this cadre there is room for a limited use of the resources (FOR-2002-06-24-712 art. 1)⁵⁷.

⁵⁵ <http://www.regjeringen.no/pages/2250272/PDFS/PRP200920100001FKDDDDPDFS.pdf>

⁵⁶ Forskrift om forvaltning av sel på norskekysten

⁵⁷ § 1. Fauna skal forvaltes slik at artenes naturlige produktivitet, mangfold og leveområder bevares, og Svalbards villmarksnatur sikres for fremtidige generasjoner. Innenfor denne rammen kan det finne sted en kontrollert og begrenset høsting.

There is, however, no indication that the hunt is targeted at population control in order to protect the balance of the eco-system.

Step 2: Non profit basis

The large scale hunt in Norway is subsidised. From 1998 to 2003, subsidies constituted on average 76 per cent of the income from sealing (MFCA, 2004, p. 41).

The question whether the product is put on the market in a quantity and nature indicating that this is not conducted for commercial purposes is open to discussion. On the one hand, one of the objectives of the hunt is to maintain the traditional way of life in the northern parts of Norway as part of an active decentralisation policy as well as securing a marine eco-system. On the other hand, the nature of hunt is organised and animals are killed in large numbers during a concentrated period of time for economic profit of the hunters.

The table below shows the quantities recommended by ICES, the Norwegian quota and the yearly catch from 2004 to 2009.

Table 7-1 Norwegian hunt 2004-2009

West Ice	2004	2005	2006	2007	2008	2009**
ICES recommendation harp seal	15 000	15 000	31 200	31 200	31 200	40 383
Norwegian quota harp seal	15 000	15 000	31 200	31 200	31 200	40 000
Catch harp seal	9 895	7 205	3 304	7 827	1 263	8 437*
ICES recommendation hooded seal	5 600	5 600	4 000	0	0	0
Norwegian quota hooded seal	5 600	5 600	4 000	0	0	0
Catch hooded seal	4 851	3 786	3 632	0	0	0
East Ice	2004	2005	2006	2007	2008	2009**
ICES recommendation harp seal	45 100	45 100	78 200	78 200	78 200	35 000
Total quota harp seal	45 100	45 100	78 200	78 200	55 000	
Norwegian quota harp seal	10 000	10 000	10 000	15 000	10 000	7 000
Norwegian catch harp seal	0	10 506	10 023	6 153	0	0

Source: Ministry of Fisheries and Coastal Affairs, E-mail Rune Dragset 14/10/09.* Numbers for 2009 are preliminary.** 400 hooded seals were caught for research purposes

To the knowledge of the consultant the products placed systematically on the market indicating that it is placed on the market for commercial reasons. Hence, the requirement in Step 2 is not complied with.

Sweden

During the period 1989-2000, the grey seal population increased rapidly and on 26 September 2001, the Swedish Environmental Protection Agency (hereinafter

the Swedish EPA) adopted a first decision to allow controlled hunting of grey seals in the Baltic Sea (Decision adopted on the basis of Article 23 a first indent 3 and Article 24 of the Hunting Ordinance (1987). As mentioned in Chapter three, the Grey seal population in the Baltic Sea is approximately 30,000 and increasing by an estimated 7 per cent a year.

The decision was taken in order to protect the Swedish fisheries. Concerns were expressed about the damage caused by seals in form of damaged catch, damage to fishing gear and hidden losses (Decision adopted on the basis of Article 23 a first indent 3 and Article 24 of the Hunting Ordinance (1987)). The Swedish EPA furthermore argued that allowing hunting would reduce the risk of illegal killing. The damage to Swedish fisheries in the Baltic Sea is calculated to EUR 5.5 million per year (Fiskeriverket 2005).

Grey seals are mainly found in the Baltic Sea, ringed seals are mainly found in the northern Baltic, and harbour seals are found in the Kattegat / Skagerrak area (Fiskeriverket, 2007). Following the Decision in 2001, the Swedish Environmental Protection Agency (EPA) has adopted yearly decisions allowing controlled hunting on the basis of allocated quotas. As mentioned earlier, the quota for hunting grey seals are around 200 a year, and around 100-115 seals are actually killed (see table below). The hunt is done in accordance with the Grey Seal management plan.

Prior to the hunt, the hunter must check if there are any seals left on the quota. If he is successful, he must inform the Coastal Guard as soon as possible after the hunt, informing them where the seal was shot. Every seal must be brought in by the hunter. Therefore, the hunt may only take place over shallow waters or on ice. If the hunt takes place over open water, it is recommended that a diver accompanies the hunter in order to help him bring in the seal. The hunter must take samples of the seals and send them to the Swedish Museum of Natural History. The samples are used for research on seals and the environment (The Swedish Association for Hunting and Wildlife Management, 2009).

Hunters hunting seals have passed the Swedish hunters' exam, which includes a sharp shooting test. Most hunters have also passed the voluntary training in seal hunting, co-developed by the Swedish Association for Hunting and Wildlife Management. Many of the hunters are fishermen. There are no commercial seal hunters or ships in Sweden, so the hunt is carried out by voluntary hunters.

The incentive for the hunter to make the extra effort to bring in the seal while killed (as opposed to leave the body in the water to rot) is twofold. The first relates to the sound principle of wise use, meaning that everything hunted should also be used (meat, pelt, blubber). The second relates to the fact that seal does represent an economic value as well and hence allows the hunter to recover at least some of his costs associated to undertake the hunt. The current value of a seal which is sold is about EUR 150 (The Swedish Association for Hunting and Wildlife Management, 2009)

Sweden has initiated research and development (R&D) projects concerned with sustainable management of seals, e.g. "Program Sälar och Fiske" (Seals and

Fisheries) funded and managed by the Environmental Protection Agency and the Fisheries Agency as well as co-funded by the EU. Earlier two EU co-funded projects called "Gråsälén I Kvarken" and "Sälén – vår gemensamma resurs" focused on developing the use of seals, developing the seal hunters training as well as creating acceptance for the grey seal among stakeholders. In addition, the Museum of Natural History is conducting research on the hunted seals.

Step 1: Purpose is sustainable marine management

The Swedish seal hunt is a strictly controlled hunt which is mainly done in order to limit the damage to fisheries. The hunt is carried out by individual hunters on a voluntary basis based on quotas determined on a yearly basis. Each hunter kills in average 0-2 seals a year. The table below provides the quotes for Sweden since 2001 together with the actual killed number of seals (Bag).

Quota and catch levels Sweden 2001-2009

SWEDEN		
Year	Quota	Bag
2001	150	57
2002	150	79
2003	170	79
2004	170	81
2005	170	83
2006	180	103
2007	200	96
2008	230	130
2009	230	

The reason for the low use of the quotas is attributed to the difficulties related to hunting seals. Bad weather, lack of ice, large "seal protection areas" where seal hunting is forbidden etc, are such factors. Hunting seal is a very difficult way of hunting which can be undertaken only by hunters who have very good knowledge of the sea and the proper equipment. As the prey is seen as a resource only, seals that can be landed are shot.

In relation to the Swedish legislation, it can be concluded that the seal hunted under this national law has the sole aim to contribute to sustainable marine management.

Step 2: Sold on non profit basis

We have found no indication that the seal hunt takes place on a commercial basis or that the products are placed on the market in a repetitive way, as most by-products are used on a private basis or sold in the local community. The price if sold to the market is likely to be less than the actual cost price of the seal hunt for the individual hunter.

Step 1: Purpose of the hunt

Russia

As mentioned above Russia conducts both large-scale hunt and indigenous hunt. Concerning the large-scale hunt, this is largely industrialised, and the consultant has no indication that it is conducted for the purpose of sustainable management of marine resources. This is based on the fact that Russia has not

signed the Bern Convention on European Wildlife and Natural Habitats, nor is party to the Bonn Convention on Conservation of Migratory species (as of February 2008 - this information needs to be verified), but has signed a memorandum of understanding on Siberian crane. Russia is, however, since 1992 signatory to CITES. On March 18, 2009, Russia's Minister of Natural Resources and Ecology, Yuriy Trutnev, announced a complete ban on the hunting of harp seals younger than one year of age in the White Sea.

In order to control the catch Russia has introduced a quota system as seen from the table below.

Overview of hunting

Species	Reported number of killed seals and /or TAC	Geographic location of the hunt
Spotted seal (<i>Phoca largae</i>)	15,000 (n.a.)	n.a.
Baical seal (<i>Pusa sibirica</i>)	3,500 (n.a.)	n.a.
Ringed seal (<i>Pusa hispida</i>)	35,200 (2005 quota)	Bering, E. Kamchatka, Okhotsk (31,400); Barents, Kara, White Seas (3800)
Caspian seal (<i>Pusa caspica</i>)	9,140 (2005 quota)	Caspian Sea zone
Ribbon seal (<i>Histiophoca fasciata</i>)	16,700 (2005 quota)	W. Bering, E. Kamchatka, Okhotsk
Bearded seal (<i>Erignathus barbatus</i>)	11,700 (2005 quota); and 800	W. Bering Sea, E. Kamchatka, Okhotsk Sea zones; and in the Barents and White sea
Harp seal (<i>Pagophilus groenlandicus</i>)	45,100 (2005 quota), 22,474 (2005 reported catch) 7,107 (2006 reported catch) 5,476 (2007 reported catch)	White sea
Hooded seal (<i>Cystophora cristata</i>)	No reported quota or catch since 1994	

Source: The EFSA Journal, (2007, pp. 18-19).

Step 1: purpose of the hunt

United Kingdom

There is no seal hunt in the United Kingdom (UK), but seals are killed in order to protect the fisheries industry. Therefore, this section covers the killing of seals in UK and not formalized hunt. Seals are protected by the Conservation of Seals Act 1970. The act covers harbour seal and grey seal and the majority of seals are in Scottish waters. In 2008, it was estimated that the Scottish population of common seal (*phoca vitulina*) counted to be at a minimum of 20,000 seals, a significant decline from previous years (Scientific Advice on Matters Related to the Management of Seal Populations, 2008p. 9⁵⁸) It is estimated that 85 per cent of the total population of common seal live in Scottish waters (Scientific Advice on Matters Related to the Management of Seal Populations, 2008p. 3) Common seal is i.a. under a Conservation order from 2007; hence it is prohibited to shoot the seal at parts of the coast. The Scottish government recognises "the need for increased protection in respect of declining common

⁵⁸ http://www.smru.st-andrews.ac.uk/documents/SCOS_2008_v1.pdf

seal numbers but acknowledge the continuing need to defend fisheries and fish farms from seals"(Press release Scottish Government 23/04/2009⁵⁹).

In contrast to the common seal, the grey seal population is increasing and about 90 per cent of the UK population is found in Scottish waters (Scientific Advice on Matters Related to the Management of Seal Populations, 2008, p. 2).

The Conservation Act (1970 c.30) article 3 states that killing, injuring or taking of seals of both species may be prohibited in specified areas, as is done in order to protect the common seal. However, there is a general exemption in the Conservation of Seals Act, allowing for seal killing if the following conditions are met (1970 c.30 §9):

- the taking or attempted taking of any seal which had been disabled otherwise than by his act and was taken or to be taken solely for the purpose of tending it and releasing it when no longer disabled;
- the unavoidable killing or injuring of any seal as an incidental result of a lawful action;
- the killing or attempted killing of any seal to prevent it from causing damage to a fishing net or fishing tackle in his possession or in the possession of a person at whose request he killed or attempted to kill the seal, or to any fish for the time being in such fishing net, provided that at the time the seal was in the vicinity of such net or tackle.

However, the consultant has no indication that the number of seals killed is regulated by scientifically determined quotas based on population models.

⁵⁹ <http://www.scotland.gov.uk/News/Releases/2009/04/23115405>

Annex 5 Background paper - Expert workshop

DG ENV

Traceability Systems for Trade in Seal Products

Briefing Note for Workshop participants

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Annex: Legislation text

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1 Introduction to the seal file

The Regulation laying down the future conditions for placing seal products on the EU market was adopted on 16 September 2009. The Regulation was needed to avoid an increase in dissimilar national legislation of EU Member States in the area. Some Member States had already introduced legislation related to this politically sensitive issue which has been discussed extensively in both the general public and at national government level.

1.1 The seal legislation in a nut shell

The Regulation imposes a total ban of placing seal products on the EU market with the several exemptions and derogations as contained in article 3.1 and 3.2.

Article 3 of COM (2008) 0469 - C6-0295/2008 - 2008/0160 (COD)

Conditions for placing seal products on the market

3.1 The placing on the market of seal products shall be allowed only where the seal products result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence. These conditions shall apply at the time or point of import for imported products.

3.2 By way of derogation from paragraph 1:

(a) The import of seal products shall also be allowed where it is of an occasional nature and consists exclusively of goods for the personal use of the travellers or their families. The nature and quantity of such goods may not be such as to indicate that they are being imported for commercial reasons;

(b) The placing on the market shall also be allowed for seal products that result from by-products of hunting that is regulated under national law and conducted for the sole purpose of sustainable management of marine resources. Such placing on the market shall only be allowed on a non-profit basis. The nature and quantity of such products shall not be such as to indicate that they are being placed on the market for commercial reasons.

The application of this paragraph shall not undermine the achievement of the objectives of this Regulation.

The Commission shall, in accordance with the procedure referred to in Article 9 (2), issue technical guidance notes setting out an indicative list of the codes of the Combined Nomenclature which may cover seal products subject to this Article.

The study has been using the following 'working definitions'.

Term	Working definition
Inuit	Indigenous members of the Inuit homeland, namely those arctic and sub-arctic areas where, presently or traditionally, Inuit have aboriginal rights and interests, recognised by Inuit as being members of their people and includes Inupiat, Yupik (Alaska), Inuit, Inuvialuit (Canada), Kalaallit (Greenland) and Yupik (Russia).
Indigenous	Peoples having a historical continuity with pre-colonial societies that developed on their territories, are a non-dominant part of the society now prevailing and consider themselves distinct from other sectors of the societies, or parts of them, and retain some or all of their own social, economic, cultural and political institutions.

Term	Working definition
Seal hunting contributing to subsistence	The hunt is not conducted for the sole purpose of placing on the market (other reasons could be maintaining cultural tradition of hunting, or self consumption), part of consumption in on the local market; the hunt contributes to community subsistence, economically or socially. Furthermore, the hunt is not organised at large scale
Non profit	Price is less than or equal to cost recovery .
Personal use	An item personally owned or possessed for non-commercial purposes, legally-acquired and at the time of import, export or re-export either: worn, carried or included in personal baggage or part of a household move.
Import	Any entry of goods into the customs territory of the Community.
Placing on the market	Introducing into the Community market, thereby making available to third parties, in exchange for payment.
Transit	Products which are not placed on the market but are transported under customs supervision through the customs territory of the Community with a final destination in a third country

INUIT and CIRCUMPOLAR PEOPLES



1.2 Qualification under article 3.1

The regulation bans the placing on the market of all products deriving from seal species unless the "seal products result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence". Hence as a main rule, the placing on the market of products deriving from hunt conducted by communities, not complying with the above men-

tioned conditions, is prohibited from entering the Community market. Products originating from main seal producing regions in Canada, Greenland, Namibia, Russia and Norway cannot be placed on the market if they do not fulfil the requirements contained in the regulation. The same applies to seal hunted or merely killed within the Community, particularly Finland, Sweden and Scotland where seals are hunted and sometimes sold locally.

The following 'qualification-decision tree' has been elaborated by COWI to substantiate the interpretation of the regulation.

Qualification under article 3.1			
STEP 1			
Inuit	Is it a community of indigenous members of the Inuit homeland – i.e. those arctic and subarctic areas where, presently or traditionally, Inuit have Aboriginal rights and interests – recognized by Inuit as being members of their people and includes Inupiat, Yupik (Alaska), Inuit, Inuvialuit (Canada), Kalaallit (Greenland) and Yupik (Russia)?	→NO	Import not allowed under article 3.1
OR			

Indigenous	Is it a community of peoples having: <ul style="list-style-type: none"> - a historical continuity with pre-colonial societies that developed on their territories, - who are a non-dominant part of the society now prevailing - who consider themselves distinct from other sectors of the societies, or parts of them - who retain some or all of their own social, economic, cultural and political institutions? 	→NO	Import not allowed under article 3.1
	YES↓		
STEP 2			
Hunt traditionally conducted	<ul style="list-style-type: none"> - Has there been a tradition of seal hunting in the community in question and geographical region? - Is hunt of seals part of the cultural heritage of the community? 	→NO	Import not allowed under article 3.1
	YES↓		
STEP 3			
Seal hunting contribution to subsistence	<ul style="list-style-type: none"> - Is the hunt not conducted for the sole purpose of placing on the market? - Are the seal products partly consumed on the local market? - Is the hunt contributing to community subsistence, economically and/or socially? - Can the hunt be characterised as not being large scale organised commercial hunting? 	→NO	Import not allowed under article 3.1
	YES↓		
STEP 4	Seal products of the community are eligible for import into the EU under article 3.1 of the regulation		

The hunt in specific regions of relevant countries conducted either by Inuit or indigenous people is analysed using the three step procedure as stated above - for simplicity we have only included details for the main sealing countries in the current Briefing Note, namely Canada, Greenland and Norway.

1.2.1 Canada

Seal hunting in Canada is divided into three main types: organised commercial seal hunting, personal use hunt, and traditional aboriginal/Inuit seal hunting (DFO, 2008b). For the purpose of Step 1 above, only the third category should be assessed, while in the first two cases, the (potential future) eligibility under article 3.2b should be tested. Also, the extent of participation of individuals or groups of Inuits in the commercial hunt should be considered.

The regions where the different types of hunt take place vary, as do the types of seals hunted.

Commercial hunt

For the commercial hunt the Canadian Governments operates an extensive licensing programme, which is guided by the Atlantic Seal Hunt Management Plan (2006-2010). It provides licences and sets quota (Total Allowable Catches or TACs) for specific seal species based on available information on the abundance of the species.

The organised commercial hunt takes place mainly on the East Coast (Atlantic Coast) in the Territories of Newfoundland, Labrador and Quebec. The commercial hunt focuses on harp and to a lesser extent hooded seals and the main prod-

uct obtained and traded is seal skins, although the market for seal oil from seal blubber is increasing, as a consequence of rising demand - in Asia in particular - for nutraceuticals based on this oil.

Eastern Canada has coastal fishing communities where seal hunt has taken place for centuries, with commercial sealing initiated by Europeans over 300 years ago. People living in isolated villages with a limited range of employment options earn a significant portion of their income from the sealing industry, in some cases, up to 35 percent. Nevertheless, these communities are not made up of Inuit and cannot be considered indigenous according to the above working definitions.

The commercial hunt under the licensing programme of the Canadian government thus does not pass the test of Step 1, as it does not constitute hunt by Inuit or indigenous communities according to the working definitions, hence it does not qualify under this Article.

Although there is Inuit presence in the regions where commercial sealing takes place, the Inuit – at community level – are not involved in the commercial hunt and where there is a hunt conducted by them in a traditional way the main reason for hunting is still subsistence, with substantial shares of the hunted animals being used for own consumption.

The licensing programme and TACs do not apply to the Aboriginal and non-Aboriginal coastal residents who reside north of 53°N latitude, and they can continue to hunt seals for subsistence purposes or as determined by specific treaty rights. This includes all main Inuit territories, as designated by the respective Land Claims Agreements (LCAs). However, to facilitate access to the commercial fishery, as an interim measure, the Canadian Government provided a one-year harp seal allocation of 6,000 seals in 2005 and 10,000 seals in 2006 for new Aboriginal initiatives. In Nunavut, the biggest independent Inuit territory, the Government has set up a support programme to facilitate access of Inuit products to the commercial market. This programme has only been moderately successful, for various reasons, and only a very small number of Inuit seal skins end up on the market. Although a small part of the commercial market, it is not considered to be part of the commercial hunting industry.

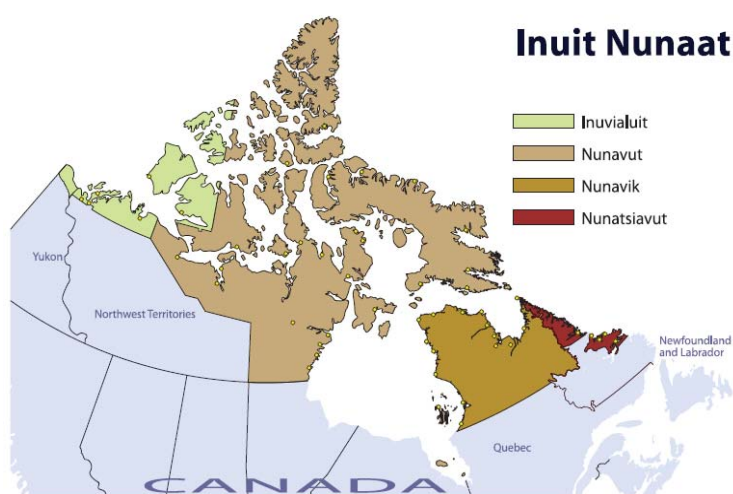
Personal use hunt

Next to the commercial licenses, since 1995, a policy change allows residents of areas adjacent to sealing areas throughout Newfoundland and Quebec to obtain a licence allowing the licence holder to hunt up to six seals annually for his own use. It is not clear to which extent by-product from this hunt ends up on markets.

The commercial hunt and the personal use hunt do not pass the Inuit or indigenous test and thus do not satisfy the conditions laid down in article 3.1 of the Regulation.

Step 1: Inuit or indigenous hunt

Of the 50,480 Inuit counted by the census in 2006, 39,475 or 78 percent lived in Inuit Nunaat - the Inuit homeland, which is depicted in the figure below.



Source: www.itk.ca

Inuit are self-identified communities. There are four territories falling under Land Claim Agreements and all beneficiaries to these agreements (enrolled with the respective Land Claims Agreement Corporations) are considered to be Inuit. Enrolment requires approval by the community.

Next to the Inuit, various other aboriginal communities can be distinguished in Canada, which are mostly organised in the First Nations. Most of these groups do not hunt seals as they live in the interiors. However, in some coastal communities hunt for subsistence takes place and some barter trade is also likely to take place. These groupings are recognised under the Inuit Land Claims Agreement.

All communities under the Land Claims Agreement would thus satisfy the requirement for this first step. The Inuit and aboriginal Communities of Canada can by definition, as stated in the Regulation, considered eligible under article 3.1

Step 2: hunts traditionally conducted

Inuit and indigenous communities in Northern and North-eastern Canada have hunted seals for subsistence and as an essential part of their culture and economy for millennia and continue to do so.

As such they satisfy the second requirement under article 3.1.

Step 3: Subsistence

The main purpose of the Canadian Inuit and indigenous populations hunt is subsistence. Given the limited options for food supply and the seasonal variations in this supply, seal meat is a traditional staple component in the Inuit diet and Inuit continue to hunt predominantly ring seals for their meat and skins.

Some of the by-product from the hunt is sold to markets. This concerns mostly seal skin, as the meat is traditionally shared if not consumed wholly by the hunter, while the economic value of the blubber makes it uninteresting to market - it is bulky and therefore costly to transport, and there are no facilities to process the blubber (into seal oil) in the North. Clothing and e.g. Kamik (tradi-

tional seal skin boots) and gloves made of seal skin are still made by Inuit seamstresses.

Most stakeholders interviewed, supported by various documents, stressed the contribution of the hunt to community subsistence, both economic and social. Sharing of seal meat fosters relationships throughout the community, while the hunt is a means for learning across generations, not just about the hunt itself, but about the environment in which Inuit live and survive. Clothing made of seal skin is still regularly worn both for practical and cultural reasons. Finally, selling some of the seal skin to markets provides additional income for a population group that has an average income far below the Canadian average.

In Nunavut, the largest Inuit territory where approximately 50 percent of all Canadian Inuit live, it is estimated that approximately 35,000 (predominantly ring) seals are hunted annually.¹ Of these an estimated 10,000 ring seal skins end up on the market² (although in recent years less). This amounts to approximately 1.5 seals hunted per person, and less than half a seal skin sold per person. Compared to the commercial hunt figures, which is estimated to employ 6,000 hunters from coastal communities and hunt up to approximately 330,000 (2006)³ harp seals alone, these numbers are very small.

The hunt itself is still done mostly on an individual basis with hunters taking a few seals at a time. Several stakeholders argued that the North and Northeastern hunt does not lend itself to commercialisation, as the seals are widely spread and the harp and hooded seals are less prevalent and do not group together as they do along the Atlantic Coast (harp seals migrate South for whelping and do this in concentrated areas). This makes the hunt economically less interesting in the North.

Summary

The hunt and trading of seal products by Inuit communities in Canada thus complies with article 3.1, as it is traditionally conducted in these communities and contributes to subsistence.

1.2.2 Greenland

Step 1: Inuit or indigenous hunt

According to the Ministry of Fisheries, Hunt and Agriculture, about 90% of the total population in Greenland is Inuit (Management and utilisation of seals in Greenland, 2009).

Hence, in the context of this regulation, products hunted in Greenland comply with the requirement of being hunted by Inuit communities.

¹ This excludes hunting loss, defined as the difference between the number of animals removed from the wild population as a result of hunting, and the number actually retrieved by the hunters. An adjustment of at least 10%-20% should be applied to ringed seal catch figures to account for hunting loss.

² Department of Environment, Government of Nunavut.

³ www.dfo-mpo.gc.ca/fm-gp/seal-phoque/reports-rapports/mgtplan-plangest0610/mgtplan-plangest0610-eng.htm#re7

Step 2: hunts traditionally conducted

Archaeological findings show that seal hunting has been an integral part of the Greenlandic societies since the first nomads came over from Canada (National Museum of Greenland and Management and Utilisation of seals in Greenland, 2009, p. 1).

Seal hunt has traditionally been and still is conducted from all settlements along the coast in Greenland throughout the year (interviews with ICC, KNAPK, Ministry of Fisheries Hunting and Agriculture, Greenland and Management and Utilisation of seals in Greenland, 2009, p. 1). Moreover, seal products such as blubber lamps and skin-covered tents are used for cultural events and for the national suits (Management and Utilisation of seals in Greenland").

This indicates that there is a long tradition for seal hunting in Greenland and it has been part of the cultural heritage of the communities there, hence the hunt is in accordance with the requirements in Step 2.

Step 3: Subsistence

Seals are hunted for the purpose of using the whole animal according to the Department of Fisheries, Hunting and Agriculture, and the hunter has the alternatives listed in the textbox below:

Text box 1-1 Use of seals in Greenland

The skin is:

- Sold to the local purchaser mainly contracted by Great Greenland
- Sold to local seamstresses making products for the tourist industry or private use

The meat, blubber, and offal are:

- Sold at Brættet - the local town market for fish and meat from hunt
- Consumed by the hunter, his family or friends
- Sold to local restaurants, retirement homes, etc.
- Sold to Arctic Greenfood - through their purchase location for meat. Products from Arctic Greenfood is available in several supermarkets in the bigger towns in Greenland

From 2002 to 2005 full time hunters sold skins⁴ for a total value of approximately 34M€ and part time hunters sold for 5M€ to the purchasers, (Rasmussen, 2005, p. 17). Great Greenland has a network of purchasers who buy the skins from the local hunters, and today Great Greenland contracts close to 100% of the purchasers in Greenland⁵. Part-time hunters are currently not al-

⁴ Not limited to seal skin

⁵ According to the Consultants information there is currently only one other seal skin purchaser in Greenland, who is located in Upernavik and has a small share of the market.

lowed to sell seal skins to the purchasers of Great Greenland. Their skins are used by themselves or their families or sold locally⁶.

Concerning the meat, there is currently neither export of the seal meat, blubber nor offal. These parts of the seal are consumed locally and constitute, according to interviews, a means of supporting food supply⁷. Moreover, seal meat is still essential fuel for sledge dogs (Management and Utilisation of seals in Greenland, 2009, p.4).

This indicates that the seal is not hunted for the sole purpose of placing the seal on the market, but are consumed and used in the local community and contributes to the local economy - formally or informally. When discussing the role of seal products and seal hunt for subsistence, and the degree to which it contributes economically and socially to the subsistence of the community, the specific character of the Greenlandic economy must be considered. Particularly concerning the meat a large share is traded and exchanged outside the formal economy. The informal economy in Greenland was in 2005 calculated to be around 24.5M€ per year, of which some 4.6 M€ stems from hunt of mammals and birds by full time hunters. In addition to this is the contribution of the part time hunters. Personal use and sales at Brættet are key contributors to the informal economy (Rasmussen, 2005, p.75).

Summary

As the requirements under all three steps appear to be met, seal product deriving from the hunt in Greenland comply with all the requirements contained in article 3.1 of the Regulation.

1.2.3 Norway

Step 1: Inuit or indigenous hunt

Norway has three kinds of seal hunting: the commercial hunt in the West and East ice, the hunt of seal along the coast, and the hunt in Spitsbergen and Jan Mayen. Qualified hunters are allowed to take part in the different hunts on equal basis and there is no separate "indigenous hunt".

The Norwegian commercial seal hunt is restricted to harp and hooded seal and is traditionally undertaken both at the East and West Ice (MFCA, 2004a, p. 35). It consists of a number of boats licensed by the Directorate of Fisheries. Until the beginning of the 1960s as many as 50 Norwegian vessels participated in the annual seal hunt in the West Ice. In the 2007 seal hunt, four vessels were given the right to participate in the West Ice and one vessel in the Eastern Ice (Directorate of Fisheries 2007c and MFCA, 2008). The hunters mainly come from communities in Northern Norway. These communities are not Inuit communi-

⁶ Interviews conducted in Nuuk, Greenland 30/09/09-02/10/09 with KNAPK, Great Greenland and Department of Fisheries, Hunting and Agriculture,

⁷ Interviews conducted in Nuuk, Greenland 29/09/09-02/10/09 with KNAPK, ICC and Department of Fisheries, Hunting and Agriculture, as well as interview with the Greenlandic representation to the EU 09/10/09

ties, and there is no information available to the Consultant indicating that the communities that take part in the commercial hunt in the West or East ice consider themselves indigenous communities. Hence this hunt does not fulfil the requirements of article 3.1 of the Regulation. In the coastal hunt from the Østfold in the Oslo Fjord along the coast to the most northern county of Finnmark, grey and harbour seals are hunted as well as ringed seal and harp seal. There are no Inuit communities along the Norwegian coast, hence the first requirement of step 1 is not fulfilled. However, the indigenous Saami population has long traditions in Norway and the country has recognised the saamis as an indigenous community in Norway under ILO convention article 169 (ratified June 20 1990⁸). Along the coast of Norway the Saami communities have long standing traditions of seal hunting (MFCAa, 2004, p. 35). Hence, these specific communities in Norway would appear to fulfil the requirements of Step 1.

The seal hunt in Spitsbergen and Jan Mayen is carried out by a limited number of hunters and is regulated separately under the Ministry of Environment, which is responsible for management of game and fresh water fishing in Spitsbergen and Jan Mayen (Directorate of Fisheries, 2007f). To the knowledge of the Consultant these communities do not define themselves as indigenous and thus do not fulfil the requirements of Step 1.

Step 2: hunt traditionally conducted

In Norway, the Saami population traditionally live in the area from the county of Hedmark and up to the Finnmark (John-Marcus Kuhmunen 25.11.2008⁹). The Saamis may take part in the different types of hunt on an equal basis as all other citizens with the required qualifications.

Especially in the coastal regions, seal products have traditionally been and are still culturally important. Traditionally Saamis lived from agriculture and hunt, hereunder both sea and land based hunting (John-Marcus Kuhmunen 25.11.2008¹⁰). Seal is used i.a. in traditional clothing and handicrafts (Gunn-Britt Retter e-mail 06/10/09). Particularly for the coastal Saamis the marine resources have been and are important.

There is also a large population of Saamis in Oslo. However as this is outside the traditional geographical area of the Saami population, products hunted there will not be eligible under this article.

Step 3: Subsistence

Agriculture and fisheries are the two traditional sectors of the coastal Saamis. The role of fisheries is strong and is recognised by particular regulation under Norwegian Law (Finnmarksloven). Hunting serves as a complementary income

⁸ <http://www.regjeringen.no/nb/dep/aid/tema/samepolitikk/midtspalte/ilokonvensjon-nr-169-om-urbefolkninger-o.html?id=451312>

⁹ <http://www.samediggi.no/artikkel.aspx?AId=54&back=1&Mid1=11&Mid2=122&sprak=norsk>

¹⁰ <http://www.samediggi.no/artikkel.aspx?AId=54&back=1&Mid1=11&Mid2=122&sprak=norsk>

source for many Saamis (Nordic Saami Convention, draft from expert group August 26. 2005 p.127¹¹).

We still need more information in order to assess the role of seal trade for purpose of subsistence of the Saami community; however we have no indication at this point that this concerns a large scale trade for the sole purpose of placing seal products on the market.

It is thus inconclusive whether or not Step 3 is fulfilled.

Summary

Due to uncertainty concerning Step 3 the assessment is inconclusive and it can thus not be determined at this point whether products hunted in the Saami communities are allowed to be placed on the market under article 3.1. If so it only applies to the Coastal hunt.

1.3 Qualification under article 3.2.b

This exemption states that "the placing on the market shall also be allowed for seal products that result from by-products of hunting that is regulated under national law and conducted for the sole purpose of sustainable management of marine resources. Such placing on the market shall only be allowed on a non-profit basis. The nature and quantity of such products shall not be such as to indicate that they are being placed on the market for commercial reasons."

Qualification under article 3.2.b			
STEP 1			
Purpose of the hunt	Is the seal product to be placed on the market a by-product from hunt for sustainable resource management?	→No	Import not allowed under article 3.2.b
	AND		
Rate of hunt	Is there a national quota determined by the exporting country based on scientific population models?	→No	Import not allowed under article 3.2.b
	YES↓		
STEP 2			
Non profit basis	Is the product sold at a price equal to or less than cost recovery or is it clearly subsidised?	→No	Import not allowed under article 3.2.b
	OR		
	Is the product placed on the market on a non-repetitive basis indicating a non-commercial motive?	→No	Import not allowed under article 3.2.b
	YES↓		
STEP 3	Seal product may be sold on the EU market under article 3.2.b of the regulation		

1.3.1 Canada

Step 1: Purpose/rate of hunt

As indicated above, seal hunting in Canada is divided into three main types: organised commercial seal hunting, personal use hunt, and traditional aboriginal/Inuit seal hunting (DFO, 2008b). The commercial seal hunting and personal

¹¹ http://www.regjeringen.no/Upload/AID/temadokumenter/sami/sami_samekonvensjon_norsk.pdf

use seal hunting are regulated by law, whereas Inuit seal hunting is not regulated to the same extent. However, the general prohibitions with regard to seal hunting regulated by the Marine Mammal Regulations apply to aboriginal hunting as well. These prohibitions concern specifically the hunting of harp and hooded seal pups.

The Canadian seal hunt is regulated under the Fisheries Act (1993-186)¹², defining marine mammals as Fish under the given legislation (Art. 2.3.a) the Marine Mammal Regulations (SOR/93-56)¹³ (MMR). The latter application applies to management and control of fishing for marine mammals in Canadian waters and in the Antarctic (Art. 3).

Canada considers seals to be renewable natural resources and its management plan thus aims at sustainable management of this natural resource. It does not include an eco-system based management plan.

Research has been done on the effects of seal population on fish stock, but results appear inconclusive. The specially established Eminent Panel on Seal Management reviewed the information available on fish consumption by seals in 2001 and concluded that “understanding the impact of seal predation on fish populations is a difficult problem as it involves understanding complex ecosystem interactions. (...) although seals consume large amounts of fish throughout Atlantic Canada, there was much less evidence that this predation was having a major impact on the recovery of most commercial fish stocks. The Panel noted that many of these stocks would probably take a long time to recover to fully exploitable levels, even if all seal predation is removed.”¹⁴

Summary

There is thus no indication that the hunt in Canada is for sustainable management of marine resources as defined in the Regulation. It is thus not fulfilling the requirements of the exception in article 3.2.b. However, research on the issue continues and may lead to introduction of this type of hunt in the future.¹⁵

1.3.2 Greenland

Step 1: Purpose/rate of hunt

Although Greenland do have a management plan (The Greenland Home Rule, Department of Fisheries, November 2006) it does not include a specific plan for the management of the seal population and there is no quota determining how many seals can be hunted each year. The population is surveyed through

¹² [Fisheries Act P.C. 1993-186 4 February, 1993](#)

¹³ [Marine Mammal Regulations, SOR/93-56 \(MMR\)](#)

¹⁴ www.dfo-mpo.gc.ca/fm-gp/seal-phoque/reports-rapports/mgtplan-plangest0610/mgtplan-plangest0610-eng.htm#re7

¹⁵ In 1992 a moratorium was placed on the northern cod fishery. Thought to be temporary, there were only modest gains in the status of the stocks seven years later and to date the stocks have not yet recovered. As the population of harp seals has increased again since the 1980s some look to them as a major predator of the recovering cod (www.canadiangeographic.ca/Magazine/JF00/sealtimeline.asp)

the NAMMCO cooperation and as the population currently is abundant according to Greenlandic authorities, national quotas are not deemed necessary (Directorate for Fisheries, Hunting and Agriculture, 15/10/09).

Summary

There is no official document stating that the hunt is for the reasons of sustainable management of marine resources, and there is no scientifically determined quota. Hence at this point, Step 1 is not fulfilled. Given that the hunt in Greenland overall satisfies the conditions laid down in art 3.1 of the Regulation, this has no incidence on the possibility of placing Greenland seal products on the European market.

1.3.3 Norway

Step 1: Purpose/rate of hunt

As mentioned above, there are three types of seal hunt in Norway: the large scale hunt in the West and East Ice, the coastal hunt and the hunt in Jan Mayen and Svalbard.

With respect to the West and East Ice hunt - according to the Norwegian Government, to maintain seal stocks at a reasonable level, it is necessary to harvest them, implying that all hunting is done for sustainable management reasons.

The quotas are determined based on scientific advice from the International Council for the Exploration of the Sea (ICES), the Northwest Atlantic Fisheries Organisation (NAFO) and the Institute of Marine Research in Norway. These recommendations are used as a basis for drawing up a multi-species management regime, which takes into account, inter alia, how the harvesting of seals will affect other species. As the effect of seals on other species is taken into account when deciding the TAC, this indicates that the management system is building on eco-management principles.

The hunt is subsidised by the state, and according to the national budget for Norway 2009-2010 it is necessary to subsidise the Norwegian hunt in order to secure that the quotas are filled. This is, according to the Norwegian government, necessary for balancing the eco-system in the sea (p. 134),¹⁶ indicating that the hunt is not conducted for commercial reasons. The fact that the quotas are determined based on eco-system management principles indicates that products sold from the hunt concern by-product.

The West and East Ice hunt thus complies with Step 1.

The objective of the Coastal hunt is to secure that the seals are sustainably utilised as a renewable resource and that the populations are regulated based on ecological and socio-economic consideration (FOR-1996-05-06-414 art. 1)¹⁷.

¹⁶ <http://www.regjeringen.no/pages/2250272/PDFS/PRP200920100001FKDDDDPDFS.pdf>

¹⁷ Forskrift om forvaltning av sel på norskekysten

Work is ongoing in order to make new management plans and long-term management objectives are currently being finalised. Until this is presented the results of this step are still inconclusive.

The hunt on Jan Mayen and Svalbard is regulated by the Governor of Svalbard and is very limited. The objective of utilisation of natural resources on Svalbard is to secure the natural productivity of the species, biodiversity and that the way of life is maintained and that the wild nature of Svalbard is secured for future generations. Within this cadre there is room for a limited use of the resources (FOR-2002-06-24-712 art. 1)¹⁸.

There is, however, no indication that the hunt is targeted at population control in order to protect the balance of the eco-system. Hence, Step 1 is not complied with.

Step 2: Non profit basis

The large scale hunt in Norway is subsidised. From 1998 to 2003, subsidies constituted on average 76% of the income from sealing (MFCA, 2004, p. 41). It is thus likely that costs exceed the direct income generated without the subsidies. Subsidies are paid by the tax payers. With subsidies at this level it is likely that the hunt is run at a costs less than or equal to recovery costs.

The question is thus whether the product is put on the market in a quantity and nature indicating that this is not conducted for commercial purposes; this is open to discussion. On the one hand, one of the objectives of the hunt is to maintain the traditional way of life in the northern parts of Norway as part of an active decentralisation policy as well as securing a marine eco-system. On the other hand, the nature of hunt is organised and animals are killed in large numbers during a concentrated period of time for economic profit of the hunters.

The table below shows the quantities recommended by ICES, the Norwegian quota and the yearly catch from 2004 to 2009.

Table 1-1 Norwegian hunt 2004-2009

West Ice	2004	2005	2006	2007	2008	2009**
ICES recommendation harp seal	15 000	15 000	31 200	31 200	31 200	40 383
Norwegian quota harp seal	15 000	15 000	31 200	31 200	31 200	40 000
Catch harp seal	9 895	7 205	3 304	7 827	1 263	8 437*
ICES recommendation hooded seal	5 600	5 600	4 000	0	0	0
Norwegian quota hooded seal	5 600	5 600	4 000	0	0	0

¹⁸ § 1. Fauna skal forvaltes slik at artenes naturlige produktivitet, mangfold og leveområder bevares, og Svalbards villmarksnatur sikres for fremtidige generasjoner. Innenfor denne rammen kan det finne sted en kontrollert og begrenset høsting.

Catch hooded seal	4 851	3 786	3 632	0	0	0
East Ice	2004	2005	2006	2007	2008	2009**
ICES recommendation harp seal	45 100	45 100	78 200	78 200	78 200	35 000
Total quota harp seal	45 100	45 100	78 200	78 200	55 000	
Norwegian quota harp seal	10 000	10 000	10 000	15 000	10 000	7 000
Norwegian catch harp seal	0	10 506	10 023	6 153	0	0

Source: Ministry of Fisheries and Coastal Affairs, E-mail Rune Dragset 14/10/09.* Numbers for 2009 are preliminary.** 400 hooded seals were caught for research purposes

The products are to the knowledge of the consultant placed systematically on the market indicating that it is placed on the market for commercial reasons. Hence the requirement in Step 2 is not complied with.

Summary

Based on the information available to the Consultant the purpose of the seal hunt on the West and East ice complies with Step 2, but as there are indications that the nature and quantity of the hunt can be considered as for commercial purposes, the Step 2 requirements are not fulfilled.

Our preliminary analysis thus indicates that import from Norway into the EU under article 3.2.b of the Regulation is not allowed.

1.4 Conclusion on qualification under article 3.1 and 3.2.b

The following table summarises the results of the qualification analysis provided above. For reasons of completeness also the 'minor' sealing countries are included.

Country/region	Qualification under Article 3.1	Qualification under Article 3.2.b
Alaska	Yes	No
Canada	Yes - for the Inuit communities	No
Finland	Partly - indigenous Saami hunt	Pending information, probably yes
Namibia	No	No
Greenland	Yes	No
Norway	Partly - indigenous Saami hunt	Inconclusive
Russia	Partly - indigenous hunt	No
Sweden	Partly - indigenous Saami Hunt	Pending information, probably yes
UK (Scotland)	No	No

1.5 Timing of implementation of the Regulation

The following table provides an overview of the main milestones towards implementation of the regulation:

Milestone	Explanation
Any day in October: Publication in the Official	Is expected anytime now during this month (October). From the publication date the Commission has 9 months (plus 20

Journal	days) to develop the implementing measures and have them adopted
18 November: Stakeholder meeting, Brussels	<p>This will be a hearing of European-level stakeholder organisations on the future possible implementing measures.</p> <p>A Consultation document will be prepared for the stakeholders, explaining the issue and presenting the main study findings so far.</p> <p>The stakeholder consultation document will be public before the meeting to allow all stakeholders who are not able to attend the meeting, to submit comment in writing to the Commission. The consultation document is to be published 2 weeks in advance of the Stakeholder meeting, e.g. 4 November.</p>
8 January 2010	A Committee meeting is scheduled for 8 January 2010 to present the first draft for discussion with Member States. The draft measure will also be notified to Geneva (under the TBT Agreement) to allow , third parties to comment.
+9 Months (& 20 days) from OJ announcement	Final implementing measures and adoption

1.6 Facts on trade and markets

For the purpose of putting the 'legislation issue' in perspective, the following provides an overview of the trade and the markets for seal products.

The main sealing countries are Canada, Greenland and Norway.

Before the financial crises and the 'ban', the total number of seals caught for trading purposes was in the order of 420 thousands. The large markets (particularly Russia, and to a lesser extent China and the Far East) have been hard hit by the financial crisis and as a consequence the demand for seal skin has suffered. At the same time the current legislation has been in the pipeline and has created uncertainty about the EU market. Hence, trade numbers are down substantially since 2007 and so is the market price of raw skin (less than half).

Table 1-2 Seal harvest and trade 2006 and 2008

Number of seals harvested (approximate numbers)	2006 'normal' year	After ban+financial crisis	Comments
Greenland caught	190.000	190.000	70000 for Inuit consumption
Greenland total trade	120.000	120.000	Stockpiling at GG
Canada total trade	280.000	70.000	
Norway	18.000	9.000	
Total trade	418.000	199.000	

The EU share

It is estimated, that approximately 5% of the total catch is actually 'consumed' in the EU, while a much larger part is passing through EU either in transit, through Auction Houses, or for tanning purposes.

Size of Inuit hunt for trade purposes

Of interest in relation to the Regulation and article 3.1 is how much of this total trade is to be subject for traceability schemes in order to qualify under article 3.1. In other words, how much of the skins are caught by Inuit or indigenous peoples and could be made available on the EU market in response to a demand.

It is worth noting that seals are hunted in Greenland (190 thousands) but that more than a third of this number is used for personal consumption (food, skin, dog food) and constitutes a substantial part of nutrition for local communities.

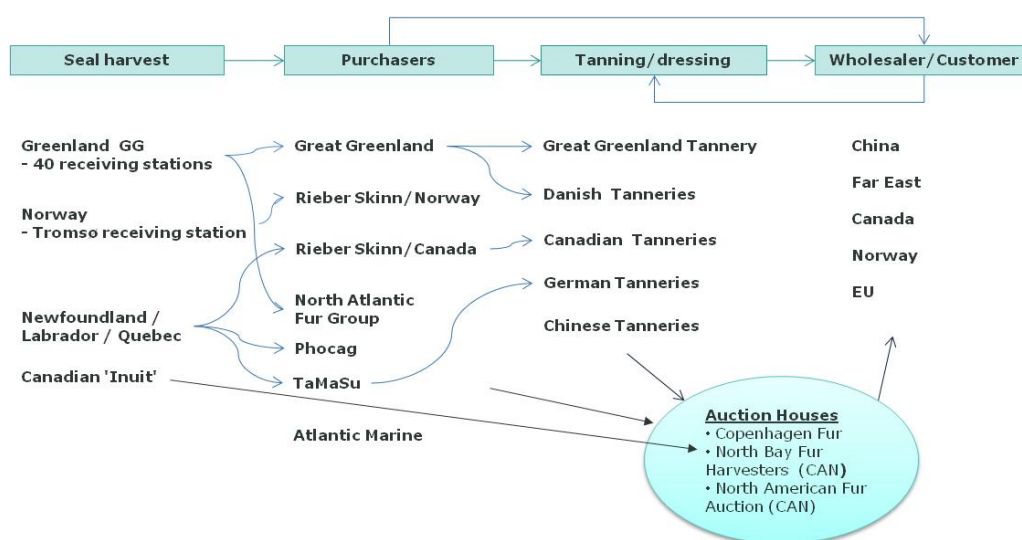
It is unlikely that all of the Greenland harvest is eligible under article 3.1. For Canada it is estimated that less than 3% of total catch derives from Inuit hunt, e.g. in the order of 10 thousands skins a year (based on a 'normal' year).

Table 1-3 Canadian and Greenland Inuit trade of seal products

Estimated Inuit/Ind skins (as part of total traded)	2006 'normal' year	After ban+financial crisis	Comments
Greenland Inuit	120.000	120.000	Same as total, but stockpiling at GG
Canada Inuit/Indegenous	10.000	3.000	This number could be higher as only based on 1 auction house
Total Inuit/Indegenous	130.000		

The trade and value
chain - seal skin

In order to unfold the complexity of the trade routes of importance for defining feasible traceability schemes, it is important to understand the trade value chain. The following is not necessarily a complete picture but rather a schematic mapping to underline the main trading patterns and the actors involved.



Commercial purchasers buy up the skins as hunters deliver the hunted seal to the receiving stations. Greenland has 40 such receiving stations. Norway has one in Tromsø. The main harvest places in Canada are in Newfoundland and Labrador

The price for the raw skin is usually given by world trade prices. In the case of Greenland and Norway the hunt is subsidised, while in Canada the support programme for the Nunavut hunters also constitutes a subsidy.

The purchaser either sends the skins directly to Tannery for further processing or collect the skin into lots which are traded at Auction houses (a few times a year).

Example Great Greenland

Some Companies, such as Great Greenland (100% owned by the Greenland government) has interests in many parts of the trading chain. They run the receiving stations, the GG Tannery and do also have manufacturing, design and marketing facilities in Greenland. The North Atlantic Fur Group (NAFG) trades all seal skins coming from Great Greenland.

Example Rieber

GC Rieber buys the seal (including blubber) from harvest stations in Newfoundland, it goes then to Rieber's own production facilities in Newfoundland where the skins are tanned and dressed and the blubber is turned into crude oil. Some skins are also bought from Norwegian harvest and shipped to Canada for tanning and dressing. From Canada the tanned skin are shipped to its final customer (China, Far East, Russia) via logistics hubs in Helsinki, Frankfurt or Estonia. Rieber Skinn AS in Norway only acts as a sales and marketing agent.

Example Canadian trader

Ta Ma Su Inc. is the biggest player in the Canadian market, probably making it the biggest global player, as the Canadian industry is estimated to have a global market share of 75% (interview TaMaSu, 2009). The company purchases seals skins and blubber from Seal harvesting stations on the Îles de la Madeleine in Quebec. The company is located on the same island. After a first processing, the pelts are sent to Germany for dressing and tanning and the blubber is processed into oil, which is then sold on to nutraceutical companies for further processing into nutritional supplements. Some of the pelts also go through Copenhagen Fur Auction, but most products are sold directly through dealers and retailers. Buyers of furs are mostly Eastern European and Asian, while the oil ends up mostly on Canadian and Asian markets. It is not clear how much of the end-products from the seal oil (nutritional supplements) eventually find their way to EU markets.

In recent years TaMaSu has also been working together with a Greek heart surgeon in exploring the possibilities for using seal heart valves in heart surgery for humans. No products are being sold yet at the moment though.

Auction Houses

The main Auction Houses trading seal skins are Copenhagen Fur (although in the recent year there has hardly been any trade on seal) and Canadian Auction Houses (North Bay Fur harvesters and North American Fur Auction). The auctions constitute a global market place where bidders from all over the world gather to trade a few times a year. The skins are sold in 'lots' according to type, quality, raw as well as tanned, etc. The Auction House takes a certain percentage fee for each skin traded from the hunter and a fee from the buyer; in the order of 8-10% in total of trading price.

The study has not been able to determine how many of the skins are sold through Auction Houses and how many are sold directly from 'Purchaser' to final customer.

The tanneries are either 'part of a bigger business' such as Great Greenland or operate as an 'independent entity' where skins are tanned and dressed on a fee basis. The fee is in the order of 15-25EUR per skin, varies from tannery to tannery. For such tanneries the treatment of seal are often a minor part of the business although the seal business are important in terms of timing as many other tanning processes are seasonal. Having seal skin therefore makes it possible to maintain year round operations.

The business of seal oil

Blubber is a by-product of sealing and account for about 45% of the total weight of the seal.

The refinery process is rather advanced and accounts for in the order of 80-90% of the economic value of the final product. The refined seal oil is very pure (colourless transparent liquid hardly with any taste of fish) and completely cleaned for any heavy metals through an advanced distillery process.

Blubber from seals in Greenland is more difficult to collect - as the hunting is spread all year round and also due to the logistic challenges in Greenland. It is very important that the blubber is handled while fresh and this represents a challenge in this area.

Both the crude oil and final oil derived from seal is about double price of 'comparable' fish oils. Therefore, there is hardly a risk of any economic incentive to mix seal oil with other marine oils from a cost savings point of view.

The refined oil is sold on to intermediate companies, such as health companies and pharmaceutical companies and sold as dietary supplement and food ingredient (functional food in South Korea). Main markets are Norway, South Korea, and emerging markets includes China and Japan.

Some European markets, Sweden, Denmark, Finland, and Germany were emerging but halted in recent years due by the Regulation.

The global production of seal oil is very marginal compared to fish oil - in the order of less than 1-2%. Rieber estimates the global production of seal oil to be in the order of 2000-3000 tons a year. Besides GC Rieber, there are a few Canadian seal oil manufacturers (Atlantic Marine Products, TAMASU, OCI)

Seal oil is very healthy, healthier than other fish oils due its high contain of the essential fatty acid DPA. There are proven scientific evidence on its positive effect on cholesterol, and blood thinning effects.

2 Tractability schemes

2.1 Existing traceability schemes - seal products

Based on existing literature and information as well as stakeholder interviews (particularly during field visits to Greenland and Canada) an initial assessment has been made of existing traceability schemes for seal products that will be allowed into the Community. As stipulated in the previous chapter, this covers traceability systems for seals hunted by Inuit and other indigenous communities as well as traceability systems for hunt regulated under national law and hunted for the sole purpose of sustainable management of marine resources.

Under EU law, “traceability” means the ability to track any food, feed, food-producing animal or substance that will be used for consumption, through all stages of production, processing and distribution.¹⁹

According to ISO 9000:2000 the definition of traceability is “The ability to trace the history, application or location of that which is under consideration.”

There is an additional clause which states that when relating to products, traceability specifically entails ‘*the origin of materials and parts, the processing history, and the distribution and location of the product after delivery.*’

Traceability systems for seals hunted by Inuit and other indigenous communities

Based on our assessment made in the previous chapter, it has become clear that the following countries comply – at least partially - with article 3.1 of the Regulation: Canada (Inuit and other Arctic aboriginal people), Greenland (Inuit), Norway (Saami), Russia (Arctic aboriginal peoples), Sweden (Saami) and Finland (Saami). Alaska also has a small indigenous communities based hunt that would comply with article 3.1.

Only in Greenland some form of traceability system was found in relation to seal products and Inuit hunters, which has been developed in anticipation of the EU Regulation.

As mentioned previously, in Greenland each skin is registered when purchased so it is possible to trace back the number of skins sold by each hunter, per species. Moreover, all Great Greenland skins are automatically measured, stamped for size, quality, production code and the Great Greenland logo. Products from Great Greenland are also affixed with a label containing a bar code, containing the above mentioned information and the text: Traditional hunt conducted by INUIT communities for subsistence purposes. Great Greenland, moreover, enclose a statement with their products, issued by the Directorate for Environment and Nature, stating that the seal products are legally hunted and in line with CITES. This is to emphasize that none of the seal species hunted is on the CITES list.

¹⁹ http://ec.europa.eu/food/food/foodlaw/traceability/factsheet_trace_2007_en.pdf

Table 2-1 Summary Greenland Traceability system for Inuit seal products

Name of Scheme	<ul style="list-style-type: none"> Great Greenland labelling of seal furskins; 	Voluntary/Non voluntary	Voluntary
Objective of scheme	<ul style="list-style-type: none"> Identify product as made in Greenland and as made from traditional hunt conducted by INUIT communities for subsistence purposes. 	Legal basis	None as it is a marketing measure from the producer.
Characteristics of scheme	Close to all seal skin exports go through Great Greenland and is labelled under this scheme	Administrator	Great Greenland.
Compliance	Internal management system	Enforcement	Not enforced externally
Pros of scheme		Cons of scheme	Could open for fraud if products are imported from non eligible hunts to the company and labelled.

Other voluntary schemes

Under the IFTF managed Origin Assured label Canada, Denmark / Greenland (only seal species) and Norway (only seal species) have been approved for production of OA furs from wild furs, which covers seal fur skin from harp, hooded and ring seals (approved species). OA is a voluntary labelling system that distinguishes furs **by origin country and species**. Any Canadian, Danish / Greenlandic or Norwegian producer can apply for the label at the IFTF, although only OA fur sold through participating auction houses can attract the OA mark.

Although no official traceability system is in place in **Canada**, seal products from traditional subsistence hunt by Inuit are reasonably easy to identify, as they concern predominantly one species (ring seals), the skins are prepared traditionally and not processed industrially (making them relatively easy to recognise), while sales from the dominant source of Inuit product takes place through a Government programme (skins from Nunavut) and are thus collected centrally.

Traceability systems for hunt for the purpose of sustainable management of marine resources

No existing systems were found for this type of hunt. However, in many countries the hunt is regulated for the purpose of maintaining the population of seal species at a healthy level, which involves licensing and / or quota schemes.

Table 2-2 Regulation of sealing through national management system

Quota and licensing scheme	Licensing scheme, no quota	No system in place
Canada (not applicable to Inuit / hunters above 53°N) Norway (applicable to all hunters irrespective of ethnicity; two types: for larger scale East & West Ice hunt and for small scale Coastal hunt) Russia (need to confirm exactly what this entails, but it is certain that a quota system is in place and this most likely entails a licensing programme)	Greenland Alaska (only subsistence hunt allowed) Finland Sweden	UK (Scotland)

* Namibia is not considered here as it does not comply with article 3.1 or 3.2b.

As such, all hunt is registered and could be traced back to the actual hunters if need be. This could form a basis for further development of a traceability system on the grounds of sustainable management and the application of the non-profit and non-commercial placing on the market clauses of the Regulation.

2.1.1 Traceability systems in other sectors

There are various sectors and products for which traceability systems are already in place for various reasons. As products made from seal parts include food / feed, pharmaceuticals and other consumer products, these various traceability systems may be more or less relevant according to the different seal products in question.

Traceability systems:
Definition and concepts

In the table below we provide a first overview of a number of these traceability systems, describing their characteristics and the most important institutional structures governing them as well as their potential relevance to the case of trade in seal products – rated as H (high), M (medium) or L (low). In addition an overview is given of methodologies for applying traceability systems.

Table 2-3 Overview traceability schemes

Scheme / programme	Characteristics	Relevance (H / M / L)
Marine Stewardship Council label for fisheries	Base: Voluntary Addresses: Sustainability issues The MSC's fishery certification program and the seafood eco-label recognise and reward sustainable fishing. Within the programme fisheries can get certified if they pass the assessment process and after they have the certificate, they can use the label. The label is used also against IUU fishing (the fisheries are checked for this).	L / M It is voluntary and does not involve a ban or restriction per se; based on sustainability instead of animal welfare. MSC has extensive experience with certification and traceability though and this technical experience could be very useful.
Egg tracing scheme	Possible technologies for labelling eggs either on the carton of the box and/or on the individual shells: Rubber stamping	L Only applies to table eggs, i.e. the whole products and not to all products it may

Scheme / programme	Characteristics	Relevance (H / M / L)
	Ink jet printing Laser etching (on the shell of the egg) RFID tags on cartons	end up in (as is the case with seal products).
CITES & EC Wildlife Trade Regulations	<p>The CITES system does not seem to be an actual traceability system, but rather a system allowing to control and monitor trade in (endangered) species. It does not seem to be able to trace the use of parts of endangered species processed in food products. But there are traceability systems (such as for caviar, discussed below) that are based on the principles of CITES.</p> <p>The aim of CITES is: to ensure that international trade in wild animals and plants is not a threat to the conservation of the species in the wild.. CITES currently regulates trade in around 30,000 species of fauna and flora, and works through a system of permits and certificates that must be obtained before international trade in specimens of species covered by the Convention can take place.</p>	<p>M-H</p> <p>Although not a traceability system per se, it provides useful insights into the management and institutional requirements for managing trade in endangered species. Moreover, it applies the principle of non-commercial use, which may be useful for the case of trade in seal products as well.</p> <p>Finally the system of import licenses and export quota could provide useful insights and lessons learned.</p> <p>Main focus is species survival, but there are elements of animal welfare in CITES as well.</p>
Caviar (CITES & EC Wildlife trade regulations)	<p>In April 2000, CITES Parties agreed on a universal labelling system for the identification of caviar. The labelling requirements for the identification of caviar in the European Union are detailed in Art. 66(6) of Commission Regulation (EC) No. 865/2006 which fully implements the CITES provisions regarding caviar labelling.</p> <p>The uniform labelling system applies to all caviar produced for commercial and non-commercial purposes, from the wild or farmed, and includes re-packaged caviar and all caviar sold on domestic markets. Licensed (re-) packaging plants shall be required to maintain adequate records of the quantities of caviar imported, exported, re-exported, produced in situ or stored.</p> <p>Labels should allow authorities to trace the origin of the caviar. The label to be affixed on primary caviar containers in the country of origin (and hence first country of export) contains a different set of information to the label affixed in a country that is re-packaging the caviar. The label affixed by the processing or packaging plant in the country of origin must include specified information using the codes agreed in Annexes 1 and 2 of CITES Resolution Conf. 12.7 (Rev.CoP14) (see http://www.cites.org/eng/res/12/12-07R14.shtml).</p> <p>Import and export permits and re-export certificates may only be issued when the Management Authority is satisfied that the caviar container is marked in accordance with these conditions.</p>	<p>M</p> <p>EU level legislation, non-compliance leads to ban?</p> <p>However, based on international conventions, so probably easier to enforce internationally.</p>
Food traceability under EU Food Regulation Law	<p>Traceability helps facilitate the withdrawal of food and enables consumers to be provided with targeted and accurate information concerning implicated products. Traceability does not itself make food safe. It is a risk management tool to be used in order to assist in containing a food safety problem.</p> <p>Article 18 requires food business operators:</p> <ul style="list-style-type: none"> to be able to identify from whom and to whom a product has been supplied; to have systems and procedures in place that allow for this information to be made available to the competent Authorities upon their request. <p>The requirement relies on the “one step back”-“one step forward” approach which implies for food business opera-</p>	<p>H for food and feed stuff, M for rest.</p> <p>Main difference is that not all food traceability is linked to ban, rather to being able to provide the correct information on labels.</p> <p>In addition, it relates to commercial businesses, implying it may be less useful when considering the ‘placing on the market for non-commercial purposes.</p>

Scheme / programme	Characteristics	Relevance (H / M / L)
	<p>tors that:</p> <p>They shall have in place a system enabling them to identify the immediate supplier(s) and immediate customer(s) of their products.</p> <p>A link "supplier-product" shall be established (which products supplied from which suppliers).</p> <p>A link "customer-product" shall be established (which products supplied to which customers). Nevertheless, food business operators do not have to identify the immediate customers when they are final consumers.</p>	
EU scheme on organic products	Tbc	
EU voluntarily eco-labels.	Tbc	
Forest Stewardship Council	Tbc	
Identification and labelling of beef and veal	<p>Regulation (EC) No 1760/2000 establishes a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products. The latter in particular may be relevant to seal products. The regulation establishes i.a. a compulsory labelling system (Title II, Section I) and a voluntary labelling system (Title II, Section II) for beef and veal).</p> <p>II.I) Compulsory labelling: operators or organisations marketing Community or imported beef are obliged to label the beef at all stages of the marketing process. When the product is not pre-wrapped, they must supply relevant information in written and visible form to the consumer at the point of sale. The following information must be shown on the label:</p> <p>the reference number or code establishing the link between the meat and the animal, or group of animals, from which the meat was derived;</p> <p>"Slaughtered in" (country where slaughter took place and licence number of the slaughterhouse);</p> <p>"Cutting/cut in" (country where cutting was performed and licence number of the cutting plant).</p> <p>The last two may be less relevant to seal products, as the origin of the hunt determines eligibility of the product under the seal Regulation, not the processing of the hunted animal.</p> <p>For the case of seal products the link should be with the hunters or communities by which the animal was harvested.</p> <p>Voluntary labelling: operators or organisations marketing beef may include information complementary to what is required in their labelling. To this end, they must send a specification for approval to the responsible authority of the Member State in which the beef in question is produced or sold. The specification must include:</p> <p>the information to be displayed on the label;</p> <p>the measures to be taken to guarantee that the information is accurate;</p> <p>the checks applicable at all stages of production and sale, including those to be carried out by independent bodies recognised by the responsible authority; and</p> <p>the penalties to be applied, in the case of organisations, to members who fail to comply with the specifications.</p>	<p>M/H</p> <p>Also concerns a live animal that may undergo further processing after its killing and thus end up on final markets in different forms.</p> <p>The voluntary labelling scheme may provide further examples of how Inuit communities or products coming from sustainable resources management may be clearly distinguished and even promoted.</p>

2.1.2 Potential for traceability systems under the new Regulation

The requirements for a traceability system under the new Regulation include:

- easy to administrate,
- cost efficient,
- possible to enforce
- transparent for consumer
- generally applicable
- '80/20 rule'

Below we discuss a number of issues in relation to possibilities for traceability systems. The actual implementing measures will need some flexibility to tailor for different circumstances in the different target countries. Where relevant we will touch on this below.

Identification at the source – labelling and certification

Given the small scale nature of the hunt and trade of seal products that fall under article 3, it should be possible to identify compliant products close to their source, i.e. the actual hunt and then further track the product as it moves downstream.

Existing licensing schemes in countries could serve as a starting point.

In Canada (Nunavut) and Greenland the Government support schemes provide a centralised database for identification of hunting source. In the case of Greenland it is per definition Inuit / indigenous, while in Canada the enrolment lists of the respective Land Claims Agreement Corporations could identify eligible hunters and their product on the basis of article 3.1.

In Russian organizations such as a) RIPON or b) MorZveroboy's (sea hunters) Union could serve as gateways to identify the products produced by Russian Inuit. Both organizations have representations in all relevant regions, even in the smallest communities where seal hunting is taking place and will be able to provide reliable information.

For eligibility under article 3.2.b it is likely that a different system is needed, as in this case the hunter or hunting community is not relevant per se, but accepted legislation and management programmes at national level of the exporting country are relevant.

Responsible institutions

- National or Federal Government to define requirements and administer certification / labelling; agreement with the EC that these requirements comply with the essence of Article 3 of the Regulation.
- Accreditation of bodies that can issue certification / labelling
- Independent auditors (to be appointed by the EU? Who will finance?)

- Industry association to assist hunters and producers in complying with and obtaining certification (close cooperation with national authorities and EC responsible bodies).

Technical issues

In the context of food, verification often takes place through the chemical tracing of food products origins, where origins and ingredients are tested against what is said on the label. Certain methods even allow for the measurement of the 'fingerprint' of a foodstuff.

Ideally the system would eventually include RFID tags (radio frequency identification), as these can store a great deal of information with few effort, are easily operated, and have high visibility. However, at this moment, there are no European regulations with regard to RFID and the technology is still evolving. Moreover, given the nature of the trade (small scale) a very sophisticated system would also be too costly. More likely a barcode system on furskins and packaging of other seal products is a better and more feasible option.

The table below provides an overview of main methodologies for traceability.

Table 2-4 Overview traceability methodologies

Methodology	Characteristics	Relevance (H / M / L)
Chemical tracing of food products origin	Some of the main chemical possibilities for testing of the food origin Used for testing the origin and ingredients against what has been told in the labelling infra-red spectroscopic techniques (in this research, it is primarily organic compounds present in foods that are measured as opposed to trace elements or isotopic ratios. These organic compounds absorb radiation at particular wavelengths or frequencies, thus giving rise to spectral signatures which are characteristic of the food composition and which may be considered as "fingerprints" of the food.) Chromatographic methods and Nuclear magnetic resonance are also widely used for the measurement of the "fingerprints" of foodstuffs	H for food and feedstuffs
TraceFood	TraceFood is a framework for traceability which consists of principles, standards and methods for Good Traceability Practice in the food industry. By adopting the TraceFood Framework, methods, procedures and practices for meeting all existing and future food traceability requirements are established. TraceFood is compatible with the GS1 recommendations for traceability, and represents a "minimum information loss" scenario with traceability of each individual food item. TraceFood was originally based on work done in the EU projects TraceFish, SeafoodPlus and TRACE. Several other international projects and initiatives now support the framework. Guidelines and standards have been, and are being developed for numerous food sectors, including seafood, mineral water, honey, chicken, cereal and meat. The goal is to ensure that; food items and processes are identified in a uniform way, that a common electronic language is available for interchange of traceability information, and that a common Good Trace-	idem

Methodology	Characteristics	Relevance (H / M / L)
	ability Practice underlie all implementations.	
Other methods	<ul style="list-style-type: none"> Data sheets Barcodes (Advantages: Cheap, well Known and tested; Disadvantages: Manual operations, late operations, a lot of work for tracing all the steps) RFID tags (radio frequency identification) (Advantages: Lots of information with few effort, easily operated, high visibility; Disadvantages: no European regulations, evolving technology) 	H
Examples of electronic databases linked to CITES	Where they are established, centralised electronic databases of specimens are useful tools to monitor trade in wildlife and facilitate the exchange of information among different authorities. Different systems, based on the registration or marking of the specimens, have been adopted in different Member States.	M-H

Trade codes and enforcement

The stakeholders interviewed in Greenland, as well as the NFAG suggested a solution where a traceability system is based on trade codes, adding an extra digit to the existing codes for seal products as to indicate that the product has Inuit origin. In Greenland the existing export licenses issued by the Ministry of Commerce are needed, and the Greenlandic stakeholders assessed that the suggested solution will require minimum of additional administration compared to the current system. There was broad agreement among the stakeholders interviewed that the system should be based on customs declarations and follow the existing paper trail.

All stakeholders emphasised the limited resources available to Inuit producers and their representative organisations for the establishment of a sophisticated (hence costly) system.

Auditing

Independent auditing would have to be a key part of the system.

2.2 Seal Trade scenarios and traceability challenges

We have compiled the following trading chain scenarios as examples of likely challenges for the regulation and in particular for the definition of the implementing rules. The idea of the trading chain scenarios thus is to use these in checking how possible traceability schemes would and could work. The scenarios listed below are 'real case examples' collected during the stakeholder consultations and are to a high degree characterised as being 'border' cases.

	Trade Scenario	Traceability scheme challenges	Implications
1	A German Tannery receives third party seal skins to be tanned and dressed. The tannery receives a payment to undertake this value adding activity. The ownership of the skins however stays with the third party and the skins are thereafter exported to its final buyer outside the EU.	Transit Although the skins are treated on EU soils - they are not to be placed on the EU market. Is this to be regarded as transit?	Socio-economic impacts: The German tannery also processes other type of skins, but if the tanning of seal skin will fall away, approximately half of the staff (currently 30) will be laid off.
2	Fortuna Oils(NO) (owned by GC Rieber, NO) buys the raw skin with the blubber from harvest station in New-	No direct challenges if Norway is not included in the Regula-	The implications depend on whether Norway (as EEA)

	Trade Scenario	Traceability scheme challenges	Implications
	foundland. The blubber is turned into crude oil and shipped off to Kristiansund (NO) to be refined into high quality seal oil. The oil is then sold on to intermediate companies (health product companies, pharmaceutical companies) and exported outside the EU	tion	member is included in the Regulation
3	Fortuna Oil is currently not utilising crude oil from other sources than the Newfoundland purchases. However, due to the regulation and due to an increased market interest for seal oil (for nutrient reasons) they would consider to use blubber from 'legal' seals, e.g., Greenland although the collection and transport of the seal blubber might turn out to be not financial feasible.	Traceability Oil For obviously reason you cannot attach a stamp or bar code to 'crude oil'. Traceability however can be done in terms of production batches. What would be the traceability requirements in terms of certification, labelling, trading codes, enforcement?	
4	Local hunters or fishermen on Swedish west coast kills x number of seals every year to balance local ecosystem in accordance with the local 'regulator'. The hunters/fishermen give the bodies to a local restaurant (in return for a free meal). The restaurant offers 'fresh local seal meat' on the menu at a price similar to other special dishes	Non profit How to prove that the seal meat is from the local hunter/fisherman if it is handed over freely (no receipts).	This is likely to be a very marginal problem, as seal meat sold in EU restaurants is likely to be small?
5	EU based Margarine manufacturer X produces 'margarine with Omega3 content' that might or might not contain Omega3 derived from seals (speculative example)	Traceability proof Will the margarine producer have to be able to state that the Omega3 used are not from seals?	There are tens of thousands of producers using Omega3, hence administrative costs would be huge. What would be the concern of the consumer?
6	An EU gloves importer, imports leather gloves made in China. The gloves are lined with seal skin	Marginal cases/minimum value The importer (or exporter) will have to be able to prove that the seal skin falls under 1 of the 3 exemption areas. Or could a minimum value be applied as is the case with the US rules?	
7	Copenhagen Fur held auctions in Copenhagen and sell on seal skin to third parties outside Europe	Transit Is this to be regarded as 'transit'?	If the auction makes money off the transaction (highly likely), this implies part of the 'market value' of the seal product is realised within the EU. However, the product is not physically placed on the EU market.
8	A number of skin traders are based in EU member states (and Norway). They buy raw skins in Canada, the skins are tanned and dressed in Canada. Although the final customers are in Russia or Far East, the invoicing goes through the EU company and often through Logistics intermediates in Helsinki, Frankfurt etc	Transit The skins are not to be placed on the EU market and are on 'transit papers'. However any trade profit is to be registered within the EU	
9	A German wholesaler has 20,000 seal skin in stock due to the current lack of demand. The skins do not have 'traceability' certificates, but has already 'entered' the EU market.	Transition period The traceability scheme needs to include a transition period to take into account intermediate products already placed on the market	
10	Scottish shop owner that has as a business the rental of quilts and sporrans, the latter made of seal skins. These sporrans were purchased a few years ago and ever since new sporrans have not been acquired. The	Transition period The product does not change owner.	Do we need to define placing on the market? e.g. make available to the EU consumer for use and con-

	Trade Scenario	Traceability scheme challenges	Implications
	shop owner has no trace of the origin of these sporran - would the rental of a ten year old sporran be considered "placing on the market" and thus, prohibited?		sumption?
11	A Swedish lady decides to get rid of a few of her old fur coats, one of them made of seal skin. There are different possibilities:		
A)	she sells it to her next door neighbour and makes a small profit	Placed on the market - can this be considered to be "placed on the market?". As in the previous case, the coat is quite old - early 70's and there is no way she can find out where it came from or how the seal was killed.	This raises issue of what happens once product is on the market; the 'new' products that come in under a new traceability system will have a label or certificate of some sort, but old product will not. Perhaps it should be interpreted that any product that initially entered the market before the ban will not need certification after.... Or can be registered as being pre-ban and thus exempted....?
B)	She puts an add on "ebay" and due to the high demand, makes a huge profit.	Profit further down the line - would this be prohibited by the EU ban?	This is a more general problem. Once the product is 'in' i.e. has been imported and placed on the market, it would be possible to sell it on for a profit... Would a traceability system have to continue to be 'followed' cf. registration system under CITES
C)	The lady lives in Norway and sells it to a Swedish lady - the coat is therefore "imported" into Sweden - the coat is sent by DHL in a medium size box.	Would this be considered to be a "placement on the market"? Would a second hand sale be caught by the EU ban?	See above

2.3 Main issues for traceability experts to reflect upon

Inuit	<p>Is self-identification the best approach?</p> <p>Are there any implications if a 'community level' approach is applied?</p> <p>Inuits are keen to get clarifications on the Regulation for subsistence reasons as the income they make on skin trade and handicraft do constitute part of their income. Currently tourists are not buying their products as rules are unclear.</p>	<p>Any lesson learnt or best practices from other sectors?</p> <p>Are there similar awareness issues to be learnt from in other sectors?</p>
Indigenous	<p>The definition of indigenous people is not clear. How long time does it go back in history?</p> <p>Should EC name the groups of indigenous people to qualify under article 3.1? Or does self-identification work?</p>	<p>Cases of precedent?</p>
Sustainable management of marine resources	<p>The big sealing countries such as Canada and Norway have national seal management plans. The management plan estimates on a yearly basis TAC.</p> <p>However there is a difference in what needs to be hunted and what is allowed to be hunted.</p>	<p>Any experiences on this issue from MSC?</p>
Non-profit basis	<p>Could this be on a Cost recovery basis?</p> <p>What about on-selling (once the product has entered the market)?</p>	<p>Cases of precedent?</p>
Transit	<p>What is included in 'Transit':</p> <p>In the cases of 'value-adding activities' taking place on EU soils</p>	<p>Any experience from other sectors?</p>

Special cases

on the seal skin or seal product, but final product is exported?
Skin auctions on EU soil, but goods are on transit papers?
Canadian skins shipped (on Transit papers) via logistics hubs in Helsinki or Frankfurt?
Blubber imported to Norway, to undergo distillery process, hereafter exported outside EU?
A Greenlander who wish to or need to bring with her the National dress/costume for cultural matters?

Are there examples of such a 'personal' document to avoid problems at borders?

Annex 6 Background paper - Stakeholder meeting

DG ENV

Study on implementing measures for trade in seal products

Stakeholder Briefing Note

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1 Summary of context

The Regulation concerning trade in seals products

The Regulation on the trade in seal products (Regulation (EC) No 1007/2009 of the European Parliament and of the Council)¹ laying down the future conditions for placing seal products on the EU market was adopted on 16th September 2009 and published in the Official Journal of the EU on 31st October 2009. The Regulation was introduced in order to avoid an increase in dissimilar national legislation of EU Member States. Some Member States had already introduced legislation related to this politically sensitive issue which has been discussed extensively in both the general public and at national government level.

The need for the study as input to defining implementing rules

Following the adoption of the Regulation, there is need to gain more knowledge of factors relevant for trade in seal products, including knowledge of seal hunting communities, seal products and the necessary measures to apply the conditions of the Regulation. COWI A/S has been contracted by the European Commission, DG Environment, to undertake a Study on implementing measures for trade in seal products, which provides input to the Commission's process of developing implementing measures for this Regulation. Therefore, the results of this present study are providing input to the development of a suitable traceability scheme that can ensure that the conditions stipulated in the Regulation are met while defining the implementing rules.

The Regulation

The Regulation covers all products, processed or unprocessed, derived or obtained from pinnipeds (Article 2.2). In order to ensure that no products derived from seals² are placed on the market, knowledge about which products contain or may contain seal derivatives is necessary.

This includes products that contain or may contain whole parts or derivatives of the pinnipeds:

- Phocidae; earless seals, or true seals, hereunder, but not limited to harp, hooded, ringed, common and grey seals.
- Otariidae: eared seals, which are commonly referred to as sea lions and fur seals, hereunder but not limited to the south African fur seal
- Odobenidae: walrus

The Regulation, Article 3, introduces a general ban on placing seal products on the market unless certain conditions are fulfilled, as included in the text box below.

¹ [http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:286:0036:0039:EN:PDF)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:286:0036:0039:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:286:0036:0039:EN:PDF)

² Except products allowed pursuant to Article 3.

*Text box 1 Conditions for placing seal products on the market***Article 3 of COM (2008) 0469 - C6-0295/2008 - 2008/0160 (COD)****Conditions for placing seal products on the market**

- 1 The placing on the market of seal products shall be allowed only where the seal products result from hunts traditionally conducted by Inuit and other indigenous communities and which contribute to their subsistence. These conditions shall apply at the time or point of import for imported products.
- 2 By way of derogation from paragraph 1:
 - (a) The import of seal products shall also be allowed where it is of an occasional nature and consists exclusively of goods for the personal use of the travellers or their families. The nature and quantity of such goods may not be such as to indicate that they are being imported for commercial reasons;
 - (b) The placing on the market shall also be allowed for seal products that result from by-products of hunting that is regulated under national law and conducted for the sole purpose of sustainable management of marine resources. Such placing on the market shall only be allowed on a non-profit basis. The nature and quantity of such products shall not be such as to indicate that they are being placed on the market for commercial reasons.

The application of this paragraph shall not undermine the achievement of the objectives of this Regulation.
- 3 The Commission shall, in accordance with the procedure referred to in Article 9 (2), issue technical guidance notes setting out an indicative list of the codes of the Combined Nomenclature which may cover seal products subject to this Article.

2 Scope and objectives of consultation

The objective of the stakeholder consultation is to obtain feedback from stakeholders regarding the practical implementation of the Regulation.

3 Study findings

The study has taken a three folded approach in order to create a basis for developing recommendations and options for traceability systems concerning seal products.

- Identification and analysis of affected seal hunting communities

- Facts on trade and market , hereunder the products containing or possibly containing seal products and the trading chain
- Identification of product types that contain or may contain seal derivatives

Below the preliminary study findings concerning these three aspects are elaborated.

3.1 Affected communities

As part of this study, the role of seal hunt and sealing legislation has been analysed for the relevant countries relative to the two key exemptions in Article 3.1 (exemption for Inuit and Indigenous communities) and Article 3.2b (sustainable resource management) respectively. This includes the hunt in: Alaska, Canada, Finland, Greenland, Namibia, Norway, Sweden and Russia. Moreover, the killing of seals in UK has been analysed, although this is not a formal hunt.

Communities affected by the Article 3.1

The analysis takes the point of departure that only products complying with the three requirements in article 3.1 are allowed to be placed on the European Community market. The requirements are that:

- the hunt must be traditionally conducted in the community
- the community where the product derive from, must be Inuit or indigenous
- the hunt must contribute to the subsistence of the community

With reference to the above, it appears that the communities conducting hunts in Alaska, Arctic Canada, Greenland and certain Northern parts of Russia are mostly Inuit or indigenous³ communities. The communities have long standing traditions for seal hunting in their homeland and the seals are partly consumed at the local market contributing to e.g. food supply in addition to generating a relatively limited income. As such the hunt can be considered to contribute to the subsistence of the societies.

There are also other indigenous communities that might fall under this exemption such as the Saami communities e.g. in Norway and the Kihnu people in Kihnu Island in Estonia.

Sustainable management of marine resources - Article 3.2.b

One of the pillars of the European Community policy for sustainable management of marine resources is based on eco-management (Marine Management Framework Directive (2008/56/EC)) and in this study we interpret Article 3.2 in this context. This study therefore takes the approach that management of the seal populations should be seen in context with the other species of the ecosystem. This would mean that in order to fall under this article would not be sufficient to have a total allowable catch at a level that does not endanger the species, but management of seal populations should be seen in relation to other species. Therefore, in the context of the study, the hunt is only seen as sustain-

³ For example Aleut, Yupik and Inupiat in Alaska

able management of marine resources if undertaken in order to maintain the balance of the eco system on which the hunted seal population live. Moreover, the Regulation states that the nature and quantity of the hunt must be such as to indicate that the hunt is not a commercial activity and products must only be sold at non profit basis. Hence any centrally organised large scale hunt does not seem likely to fall under this exemption.

3.2 Trade in seal products

For the purpose of putting the 'legislation issue' in perspective, the following provides an overview of the trade and the markets for seal products.

Before the financial crises and the 'ban', the total number of seals caught for trading purposes by the main sealing countries⁴ was in the order of 600 thousands. The large markets (particularly Russia, and to a lesser extent China and the Far East) have been hard hit by the financial crisis and as a consequence the demand for seal skin has suffered. At the same time the current legislation has been under preparation and has created uncertainty about the EU market. Hence, trade numbers are down substantially since 2007 and so is the market price of raw skin (less than half).

Table 3-1 Seal harvest and trade 2006 and 2008⁵

Number of seals harvested (approximate numbers)	2006 'normal' year	After ban+financial crisis	Comments
Greenland caught	190.000	190.000	70000 for Inuit consumption
Greenland total trade	120.000	120.000	Stockpiling at GG
Canada total trade	280.000	70.000	
Norway	18.000	9.000	
Total trade	418.000	199.000	

The EU share

It is estimated, that approximately 5% of the total catch is actually 'consumed' in the EU, while a much larger part is passing through EU either in transit, through Auction Houses, or for tanning purposes.

Size of Inuit / indigenous hunt for trade purposes

Of interest in relation to the Regulation and article 3.1 is how much of this total trade is to be subject for traceability schemes in order to qualify under article 3.1. In other words, how much of the skins are caught by Inuit or indigenous communities and could be made available on the EU market in response to a demand.

With regard to the seals hunted in Greenland(190 thousands) , it is worth noting that more than a third of this number is used for personal consumption (food,

⁴ Canada, Greenland, Namibia, Norway and Russia.

⁵ We do not have any data on the current hunting levels of Namibia and Russia. EFSA 2007 indicate that hunting levels about 80.000 in Namibia and 100.000 in Russia in 2006.

skin, dog food) and constitutes a substantial part of nutrition for local communities.

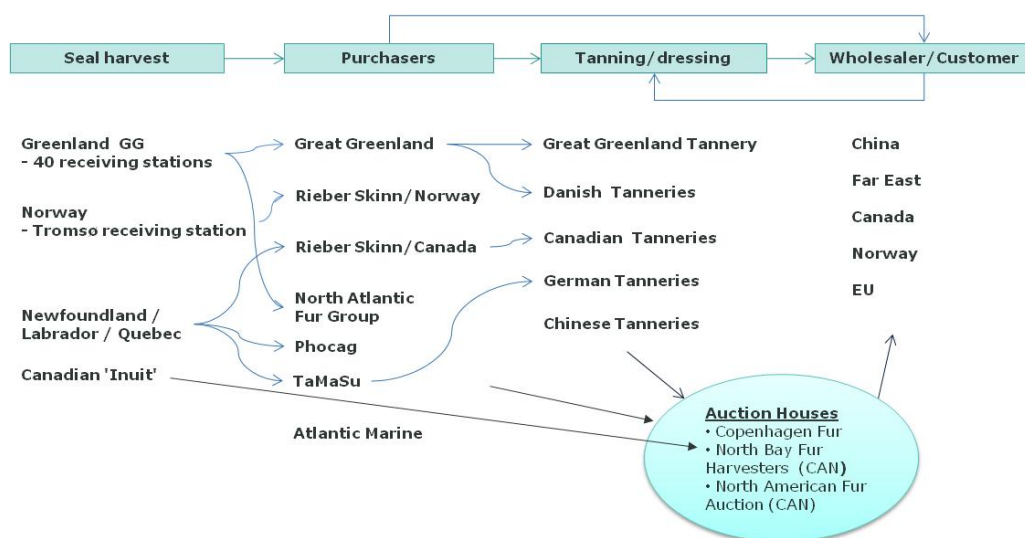
For Canada it is estimated that less than 3% of total catch derives from Inuit hunt, e.g. in the order of 10 thousands skins a year (based on a 'normal' year).

Table 3-2 Canadian and Greenland Inuit trade of seal products

Estimated Inuit/Ind skins (as part of total traded)	2006 'normal' year	After ban+financial crisis	Comments
Greenland Inuit	120.000	120.000	Same as total, but stockpiling at GG
Canada Inuit/Indegenous	10.000	3.000	This number could be higher as only based on 1 auction house
Total Inuit/Indegenous	130.000		

The trade and value
chain - seal skin

In order to unfold the complexity of the trade routes of importance for defining feasible traceability schemes, it is important to understand the trade value chain. The following is not necessarily a complete picture but rather a schematic mapping to underline the main trading patterns and the actors involved.



Commercial purchasers buy up the skins as hunters deliver the hunted seal to the receiving stations. Greenland has 40 such receiving stations. Norway has one in Tromsø. The main harvest places in Canada are in Newfoundland and Labrador.

The price for the raw skin is usually given by world trade prices. In the case of Greenland and Norway the hunt is subsidised, while in Canada the support programme for the Nunavut hunters also constitutes a subsidy.

The purchaser either sends the skins directly to Tannery for further processing or collect the skin into lots which are traded at Auction houses (a few times a year).

Example: Great Greenland

Some Companies, such as Great Greenland (100% owned by the Greenland self-rule) has interests in many parts of the trading chain. They run the receiving stations, the GG Tannery and do also have manufacturing, design and marketing facilities in Greenland. The North Atlantic Fur Group (NAFG) trades all seal skins coming from Great Greenland.

Example: Rieber

GC Rieber buys the seal (including blubber) from harvest stations in Newfoundland, it goes then to Rieber's own production facilities in Newfoundland where the skins are tanned and dressed and the blubber is turned into crude oil. Some skins are also bought from Norwegian harvest and shipped to Canada for tanning and dressing. From Canada the tanned skin are shipped to its final customer (China, Far East, Russia) via logistics hubs in Helsinki, Frankfurt or Estonia. Rieber Skinn AS in Norway only acts as a sales and marketing agent.

Example: Canadian trader

Ta Ma Su Inc. is the biggest player in the Canadian market, probably making it the biggest global player, as the Canadian industry is estimated to have a global market share of 75% (interview TaMaSu, 2009). The company purchases seals skins and blubber from Seal harvesting stations on the Îles de la Madeleine in Quebec. The company is located on the same island. After a first processing, the pelts are sent to Germany for dressing and tanning, while the blubber is processed into oil in Canada and then sold on to nutraceutical companies for further processing into nutritional supplements. Some of the pelts also go through Copenhagen Fur Auction, but most products are sold directly through dealers and retailers. Buyers of furs are mostly Eastern European and Asian, while the oil ends up mostly on Canadian and Asian markets.

In recent years TaMaSu has also been working together with a Greek heart surgeon in exploring the possibilities for using seal heart valves in heart surgery for humans. No products are being sold yet at the moment though. This might be a future emerging market.

Auction Houses

The main Auction Houses trading seal skins are Copenhagen Fur (although in the recent year there has hardly been any sales) and Canadian Auction Houses (North Bay Fur harvesters and North American Fur Auction). The auctions constitute a global market place where bidders from all over the world gather to trade a few times a year. The skins are sold in 'lots' according to type, quality, raw as well as tanned, etc. The Auction House takes a certain percentage fee for each skin traded from the hunter and a fee from the buyer; in the order of 8-10% in total of trading price.

The tanneries are either 'part of a bigger business' such as Great Greenland or operate as an 'independent entity' where skins are tanned and dressed on a fee basis. The fee is in the order of 15-25EUR per skin, varies from tannery to tannery. For such tanneries the treatment of seal are often a minor part of the business although the seal business are important in terms of timing as many other

The business of seal oil

tanning processes are seasonal. Having seal skin therefore makes it possible to maintain year round operations.

Blubber is a by-product of sealing and account for about 45% of the total weight of the seal.

The refinery process is rather advanced and accounts for in the order of 80-90% of the economic value of the final product. The refined seal oil is very pure (colourless transparent liquid hardly with any taste of fish) and completely cleaned for any heavy metals through an advanced distillery process.

Blubber from seals in Greenland is more difficult to collect - as the hunting is spread all year round and also due to the logistic challenges in Greenland. It is very important that the blubber is handled while fresh and this represents a challenge in this area.

Both the crude oil and final oil derived from seal is about double price of 'comparable' fish oils. Therefore, there is hardly a risk of any economic incentive to mix seal oil with other marine oils from a cost savings point of view.

The refined oil is sold on to intermediate companies, such as health companies and pharmaceutical companies and sold as dietary supplement and food ingredient (functional food in South Korea). Main markets are Norway, South Korea, and emerging markets includes China and Japan.

It appeared that some European markets, Sweden, Denmark, Finland, and Germany were emerging but halted in recent years due to the development of the Regulation.

The global production of seal oil is very marginal compared to fish oil - in the order of less than 1-2%. Rieber estimates the global production of seal oil to be in the order of 2000-3000 tons a year. Besides GC Rieber, there are a few Canadian seal oil manufacturers (Atlantic Marine Products, TAMASU, OCI)

A number of scientific studies conclude that seal oil is healthier than other fish oils due its high contain of the essential fatty acid DPA. There are proven scientific evidence on its positive effect on cholesterol, and blood thinning effects.

3.3 Products that contain or may contain seal derivatives

Table 3-3 below, therefore present an indicative list of products that may contain or contain seal derivatives listed according to the trade codes of the Commission Regulation (EC) No 1031/2008 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff. It should be noted however, that a limited number of codes listed are taken from the Greenlandic customs authorities list of product codes used when issuing export licences. This only concerns codes with 9 digits or more and is marked with an asterisk in the table below.

The list mainly concerns products from seals, and the Nomenclature⁶ does not make a distinction between earless and eared seals. Hence seal products listed below include both the Phocidae and Otariidae family. Concerning Odobenidae, walrus, the only product listed is the teeth and in the Nomenclature these are included in the general category of ivory. Greenlandic trade authorities do however have a specific trade code for the teeth of walrus as seen in the table.

When reading the table, it should be considered that there are products which clearly contain seal products, and where it is relatively easily identified or documented, hereunder fur products as the seal fur is quite characteristic. On the other hand, there are products where seal derivatives are a component in a product or where the seal derivative is more difficult to identify. This includes i.a. products from seal blubber which is used to make seal oil.

Seal oil contains the three most common Omega3 fat acids, DHA, EPA and DPA, and in theory all products containing these acids may contain seal derivatives, such as baby food, margarine containing Omega3 and animal fodder. However, in reality seal blubber is only exported in limited scale and processed by a few producers in Canada and Norway. The use of the oil is thus limited, and the most common products containing seal oil is Omega3 capsules and pet food, however also this limited to a few brands. It is also to some extent used in the pharmaceutical industry.

Table 3-3 Products that contain or may contain seal skin or seal fur

Trade code				Product group	Product
4 digit	6 digit	7 digit	9 digit +		
0208				Other meat and edible meat offal, fresh, chilled or frozen:	
		0208 90 55		Seal meat	
			0280 90 550*	Fresh, cold or frozen	
			1504 30 900*	Seal blubber	Products containing Docosahexaenoic acid (DHA)
					Products containing Eicosapentaenoic acid (EPA)
					Products containing Docosapentaenoic acid (DPA)
4301				Raw furskins (including heads, tails, paws and other pieces or cuttings, suitable for furriers' use), other than raw hides and skins of heading 4101, 4102 or 4103:	
		4301 80 70		furskins, whole, with or without head, tail or paws other than mink, lamb and fox, marmots and wild felines	
4302				Tanned or dressed furskins (including heads, tails, paws and other pieces or cuttings),	

⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:291:0001:0894:EN:PDF>

Trade code				Product group	Product
4 digit	6 digit	7 digit	9 digit +		
				unassembled, or assembled (without the addition of other materials) other than those of heading 4303:	
		4302 19 41		Of whitecoat pups of harp seal or of pups of hooded seal (blue-backs)	
		4302 19 49		Of other seals	
	4302 30			Whole skins and pieces or cuttings thereof, assembled:	
		4302 30 10		Dropped ⁷ furskins	
		4302 30 51		Of whitecoat pups of harp seal or of pups of hooded seal (blue-backs)	
		4302 30 55		Of other seals	
4303				Articles of apparel, clothing accessories and other articles of furskin:	
	4303 10			Articles of apparel and clothing accessories:	
		4303 10 10		Of furskins of whitecoat pups of harp seal or of pups of hooded seal (blue-backs)	
		4303 10 90		Of other seals	
			4303 10 900*	Furs, skirts and trousers	Jackets
					Coats
					Vests
					Ivalos/ Ponchos
					Trousers
					Skirts
			4303 90 000*	Bags and purses	Bags
					Purses
					Hunters purses
					Mobile Purses
					Key and card purses
			4303 90 00 01*	Other seal goods	Wallets
					Slippers
					Gloves
					Belts
					Organisers
					Pencil cases
					Notebooks
					Spiral books
					Address books
					Tents
					Kayaks
0507				Ivory ⁷ , tortoiseshell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, unworked or simply prepared but not cut to shape; powder and waste of these products:	
		0507 90 00		Other than ivory powder and waste	
			0507 90 002*	Walrus teeth	
9601				Worked ivory, bone, tortoiseshell, horn, antlers, coral, mother-of-pearl and other animal carving material, and articles of these materials (including articles obtained by moulding):	
		9601 10 00		Worked ivory and articles of ivory	Earrings

⁷ Throughout the nomenclature, elephant, hippopotamus, walrus, narwhal and wild boar tusks, rhinoceros horns and the teeth of all animals are regarded as 'ivory'.
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:291:0001:0894:EN:PDF>

Trade code				Product group	Product
4 digit	6 digit	7 digit	9 digit +		
					Appendages
					Finger rings
					Charms
					Key chains
					Ornaments
0510					
		0510 00 00		Ambergris, castoreum, civet and musk; cantharides; bile, whether or not dried; glands and other animal products used in the preparation of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved	Seal products used for in the pharmaceutical industry
3001				Glands and other organs for organo-therapeutic uses, dried, whether or not powdered; extracts of glands or other organs or of their secretions for organo-therapeutic uses; heparin and its salts; other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included.	Heart valves that may be used for heart transplantations in the future

Source: The Nomenclature - Commission Regulation No 1031/2008; *list of trade codes from Greenlandic tax authorities, used for issuing export licences in Greenland

It should be noted that all foodstuffs currently fall under the EU's General Food Law, which already contains compulsory traceability for food and feedstuff producers. This means that any producer of feed or foodstuffs (including vitamins and food supplements), should already have a traceability system, although this does not trace back to ethnic origins (Inuit and indigenous hunt) but rather to geographical origin and chemical composition

4 Key issues

Implementing the Regulation entails principally the establishment of a set of requirements that economic operators looking to place seal products on the EU market should fulfill.

It is recommended that the minimum requirements should at least include the following three key aspects:

- 1) Identification requirements
- 2) Record and record keeping requirements and
- 3) The ability to produce traceability reports (verification).

Following the preliminary study findings, it appears that the implementing rules should be best set in a flexible way, to allow for the different situations in the affected countries and communities as described above. I.e. one option could be that the implementing rules should specify *what* is required, economic operators would then be left to decide *how* they could best meet these requirements (what system to be put in place).

Minimum requirements of the Regulation**Identification requirements**

It is recommended that trade codes are further developed which would then trigger customs officials. They would subsequently need to know what to look for.

The identification requirements for the product then could include principally three elements:

- 1) The hunter (either an Inuit / indigenous hunter or licensed hunter for resource management purposes)
- 2) The collecting station (designating the territory / geographical location)
- 3) The product (essentially traces the transaction between the hunter and the collecting station).

Records and record keeping

Record keeping requirements include the ability to produce on demand records that contain the identification of the product. This should contain proof that the hunter or product fulfills the conditions set out in the Regulation. This record should be provided by the economic operator upon request. The way in which this is done should be left to the economic operator. Possibly they could operate their own database, or obtain information from upstream trading partners.

Producing traceability reports

This appears to be the most complicated part of the requirements, as it implies the development of some kind of form or communication that the exporter would send along with the actual product. It is recommended that this should be a standardized form per country, which would include the principles of identification and record keeping. This could take different forms, e.g. self declaration, declaration by a trade association or by national or sub-national Government authorities. It could also entail a certificate originating from a certification scheme. As already mentioned earlier, the implementing rules should be flexible enough to allow for different schemes, according to different situations in the different affected countries and communities. The form should essentially be an attestation of an appropriate identification and record keeping system that is verifiable. In other words it declares that the requirements are met and that the economic operator issuing the forms is open to verification.

Annex 7 The US fur products identification act relating - the \$ 150 exemption

301.39 Exempted fur products.

(a) If the cost of any fur trim or other manufactured fur or furs contained in a fur product, exclusive of any costs incident to its incorporation therein, does not exceed one hundred fifty dollars (\$150) to the manufacturer of the finished fur product, or if a manufacturer's selling price of a fur product does not exceed one hundred fifty dollars (\$150), and the provisions of paragraphs (b) and (c) of this section are met, the fur product shall be exempted from the requirements of the Act and Regulations in this Part; *provided, however*, that if the fur product is made of or contains any used fur, or if the fur product itself is or purports to be the whole skin of an animal with the head, ears, paws and tail, such as a choker or scarf, the fur product is to be labeled, invoiced and advertised in accordance with the requirements of the Act and Regulations in this Part, regardless of the cost of the fur used in the fur product or the manufacturer's selling price. The exemption provided for herein shall not be applicable: (1) to any dog or cat fur product; (2) if any false, deceptive or misleading representations as to the fur contained in the fur product are made; or (3) if any representations as to the fur are made in labelling, invoicing or advertising without disclosing: (i) in the case of labels, the information required to be disclosed under section 4(2) (A), (C), and (D) of the Act; (ii) in the case of advertising, the information required to be disclosed under section 5(a) (1), (3), and (4) of the Act; and (iii) in the case of invoicing, the information required to be disclosed under section 5(b) (1) (A), (C), and (D) of the Act.

(b) Where a fur product is exempt under this section from the requirements of the act and regulations, the manufacturer thereof shall maintain, in addition to the other records required under the act and regulations, adequate records showing the cost of the fur used in such fur product, or copies of invoices showing the manufacturer's selling price of the fur product, provided such price is used as the basis for exemption. Such records shall be preserved for at least three years.

(c) If a fur product is exempt under this section and the manufacturer's selling price exceeds one hundred fifty dollars (\$150), the manufacturer's or wholesaler's invoice shall carry information indicating such fur product is exempt from the provisions of the Act and Regulations in this Part; as for example: "FPL EXEMPT."

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