

**EXPLANATORY MEMORANDUM TO  
THE SEAL PRODUCTS REGULATIONS 2010**

**2010 No.2068**

1. This explanatory memorandum has been prepared by the Departments for the Environment Food and Rural Affairs, and the Department for Business Innovation and Skills and the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

**2 Purpose of the Instrument**

2.1 These Regulations introduce a criminal sanction for breach of EC Regulation 1007 / 2009 on the trade in seal products. This Regulation comes into force across the EU on 20 August 2010. It prohibits the placing on the market of products from seals and other pinnipeds (i.e. sea- lions and walruses) which includes imports and intra-Community trade unless they:

- Result from traditional hunts conducted by Inuit and other indigenous communities and contribute to their subsistence;
- Are for personal use; or
- Result from hunts regulated under national law with the sole purpose of the sustainable management of marine resources and where the products are marketed on a non-profit basis.

**3 Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 In laying these Regulations the 21 day rule will not be complied with. This is necessary to ensure the Regulations come into force on 20 August 2010 – the date EC Regulation 1007 / 2009 comes into force across the EU.

**4 Legislative context**

4.1 EC Regulation No 1007/2009 was published on 16 September 2009. It came into force 20 days after publication. However article 3 which introduces the seal trade ban does not come into effect until 20 August 2010. Regulation 1007/2009 requires every member state to “lay down rules on penalties and infringements and ensure they are implemented”.

4.2 Draft Commission implementing Regulations have been prepared and will require every member state to establish a competent authority to verify seal catch attestations and to ensure a customs declaration for free circulation is accompanied by an attestation confirming conformity with the traditional hunt / marine management requirements in the Regulation. There may also be a requirement to record data against a list of seal product customs codes in the EU customs data base, TARIC. We are still awaiting publication of the final Commission implementing regulations and any associated guidance.

4.3 The EU proposal for the seal trade ban was considered by the EU Scrutiny Committees (Explanatory Memorandum 12604/08 submitted by Defra in October 2008. The House of Lords EU Scrutiny Committee cleared the proposal on 18 May 2009 and The House of Commons EU Scrutiny Committee cleared the proposal on 10 June 2009).

## **5 Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom

5.2 Each of the Devolved Administrations has confirmed their agreement that the matter is reserved.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7 Policy Background**

7.1 Regulation 1007/2009 responds to the widespread concern about the inhumane nature of seal hunting and Government departments have in recent years received large volumes of correspondence on this issue as a result of NGO campaigns. This resulted in over 250,000 letters and postcards annually from concerned organisations and members of the public. The UK is a small consumer of seal products with imports valued at some £175,000 per annum. Commission figures show a considerably higher value of imports into the UK but most of this thought to be transit trade (products that do not in legal terms enter the Community market before being re-exported). As the Commission cannot legislate on moral or ethical issues the Regulation responds to concerns about internal market distortions.

7.2 Regulation 1007/2009 allows export and transit trade to continue but prohibits placing on the market (including imports and intra-Community trade) products from seals and other pinnipeds unless they fall into one of the categories set out at paragraph 2.1 above. There is currently no clear Departmental responsibility for animal welfare issues that have a third country dimension. As a result, Defra (animal welfare), BIS (trade), and FCO (bilateral relations with Canada), work jointly and share policy responsibility on these issues.

7.3 This instrument establishes rules on penalties and infringements. To minimise implementation costs, it simply places a duty on customs officials of the UK Border Agency to enforce the regulations at the border and establishes the Secretary of State as the competent authority. It also introduces a maximum penalty of a fine not exceeding £75,000.

## **8 Consultation outcome**

8.1 Consultation on UK implementing regulations took place between March and May 2010 involving a range of concerned NGOs and industry organisations / interests. The consultation proposed a light touch approach to enforcement involving checks at the border by UK Border Agency (UKBA) and Her Majesty's Revenue and Customs (HMRC). Where goods are in free circulation within the EU it was proposed that enforcement should be

undertaken by weights and measures authorities in Great Britain and district councils in Northern Ireland.

8.2 Six responses were received and there was a broad consensus in favour of adopting the regulatory model proposed.

## **9 Guidance**

9.1 The Government has maintained close contact with businesses and others most directly affected by the ban to ensure they have a good understanding of the implications. The Commission is preparing implementing regulations and guidance which will be made available to interested parties in the UK as soon as it is available. More detailed guidance will also be given to UK businesses and trade associations to supplement and amplify the EU material.

## **10 Impact**

10.1 The impact on business, charities or voluntary bodies will be to require all traders (including hire companies) of pinniped products will need to maintain records to demonstrate that individual seal products can be traded or hired legally by maintaining records to show the item was first offered for sale or hire before 20 August 2010 or the product falls under the Inuit / marine management exceptions. Traders that currently sell pinniped products in the EU will be forced to purchase alternative materials for their goods as the legal supply of pinniped materials will be restricted. New products manufactured from existing stocks of seal skins cannot be traded within the EU after the ban. This could reduce the value of pelts held in stock.

10.2 This measure will have no specific impact on the public sector.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory memorandum on the OPSI website.

## **11 Regulating small business**

11.1 The legislation applies to small businesses.

11.2 No special measures have been introduced to minimise the impact of the requirements on firms employing up to 20 people. This legislation provides enforcement provisions in relation to an EU wide ban on the sale of seal products. The enforcement approach adopted provides a balance between the need for robust enforcement measures while allowing the courts discretion to be lenient (if they so chose) in cases of unintentional breaches of this prohibition.

## **12 Monitoring and review**

12.1 Each Member State has to provide a report to the Commission on the measures taken to implement Regulation 1007/2009. The first report is due on 20 November 2011. Subsequent reports are required every four years.

## **13 Contact**

13.1 Geoff Webdale at the Department For Food and Rural Affairs. Tel: 0207 238 5755 or Email: [geoff.r.webdale@defra.gsi.gov.uk](mailto:geoff.r.webdale@defra.gsi.gov.uk) .

## Summary: Intervention & Options

<b>Department /Agency:</b> ■ Defra / BIS	<b>Title:</b> ■ Impact Assessment Regulations to Implement EU Regulation 1007/2009 on the Trade in Seal Products	
<b>Stage:</b> Consultation	<b>Version:</b> 1.0	<b>Date:</b> 23 March 2010
<b>Related Publications:</b>		

### Available to view or download at:

<http://www.>

**Contact for enquiries:** Geoff Webdale / Grant Mosedale    **Telephone:** 0207 238 5755 / 0207 215 5044

### What is the problem under consideration? Why is government intervention necessary?

EU Regulation 1007/2009 bans trade in seal products across the EU unless the products are from a traditional Inuit hunt or a programme to manage marine resources. These measures are directly applicable in every Member State. This regulation comes into effect on 20 August 2010 and requires the government to establish measures for enforcing the regulation and penalties for infringements. In addition draft Commission Implementing Regulations require the government to establish a competent authority to verify seal catch certificates.

### What are the policy objectives and the intended effects?

The objective is to ensure the UK complies with the requirements of the EU Regulation and to ensure that a ban on seal trade is implemented, without causing disproportionate costs for enforcement authorities or businesses

### What policy options have been considered? Please justify any preferred option.

(A) No action – this would lead to infraction proceedings against the UK.

(B) A light touch, (C) proactive risk based or (D) a blanket approach to enforcement. In view of the low level of seal imports currently entering into the UK. A light touch approach is the preferred option.

### When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

After 5 years unless the Commission triggers an earlier review.

### **Ministerial Sign-off** For final proposal / implementation stage Impact Assessments:

*I have read the Impact Assessment and am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy and (b) the benefits justify the costs.*

Signed by the responsible Minister:

.....Jim Fitzpatrick.....Date: ...23 March 2010.....

## Summary: Analysis & Evidence

<b>Policy Option: B</b>	<b>Description: Light touch approach to customs enforcement</b>
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<b>1.</b>	<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups' HMRC/UKBA: (i) enforcement checks £352k – 704k (p.a.); (ii) Seal Catch Certificate checks £44.8k (p.a.)  Local Authorities: investigations £22.5k (p.a.)  Competent Authority: check validity of Seal Catch Certificates £2.2k - £44.8k (p.a.)
		<b>One-off</b> (Transition) <span style="float: right;">Yrs</span>	
		<b>£ 0</b>	
		<b>Average Annual Cost</b> (excluding one-off)	
		<b>£ 421k – 816k</b>	<b>Total Cost (PV)</b> <b>£ 2.0m – 3.8m</b>
<b>Other key non-monetised costs</b> by 'main affected groups': Potential government costs of defending this approach if it is challenged by the Commission. Costs to consumers who find it more difficult or costly to purchase seal products. Potential costs to businesses for administrative burdens, potential delays at customs and higher costs of purchasing alternatives to seal products.			

<b>2.</b>	<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups'
		<b>One-off</b> <span style="float: right;">Yrs</span>	
		<b>£ 0</b>	
		<b>Average Annual Benefit</b> (excluding one-off)	
		<b>£ 0</b>	<b>Total Benefit (PV)</b> <b>£</b>
<b>Other key non-monetised benefits</b> by 'main affected groups' Very few, if any, UK prosecutions a year resulting from the infringements of UK regulation. This provides a negligible value to members of the public who are concerned about current hunting practices; this is smaller than the value provided by Options D or E.			

**Key Assumptions/Sensitivities/Risks:** Assumed that volume of trade that may contain seal products is constant. Various other assumptions used in cost calculations are set out in the evidence base. 5 year time period to match the review period. There is a risk that the Commission challenge this approach to enforcement.

Price Base Year 2010	Time Period Years 5	<b>Net Benefit Range (NPV)</b> <b>£ (-)2.0m - (-)3.8m</b>	<b>NET BENEFIT (NPV Best estimate)</b> <b>£ (-)2.89m</b>
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What is the geographic coverage of the policy/option?	UK
On what date will the policy be implemented?	20 August 2010
Which organisation(s) will enforce the policy?	UKBA, HMRC, LAs
What is the total annual cost of enforcement for these organisations?	£ NA
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per year?	£ 0
What is the value of changes in greenhouse gas emissions?	£ 0
Will the proposal have a significant impact on competition?	No
Annual cost (£-£) per organisation (excluding one-off)	Micro 0      Small 0      Medium 0      Large 0
Are any of these organisations exempt?	No      No      N/A      N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)
Increase of    £ increase	Decrease of    £ 0	<b>Net Impact</b> £ increase

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Summary: Analysis & Evidence

<b>Policy Option: C</b>	<b>Description: Proactive risk-based approach to customs enforcement</b>
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<b>3.</b>	<b>COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups' HMRC/UKBA: (i) enforcement checks £1.8m - £7.1m (p.a.); (ii) Seal Catch Certificate checks £44.8k (p.a.)  Local Authorities: investigations £113k (p.a.)  Competent Authority: check validity of Seal Catch Certificates £2.2k - £44.8k (p.a.)	
		<b>One-off</b> (Transition) <span style="float: right;">Yrs</span>		
		<b>£ 0</b>		
		<b>Average Annual Cost</b> (excluding one-off)		
		<b>£ 1.9m – 7.1m</b>	<b>Total Cost (PV)</b>	<b>£ 8.9m – 33.9m</b>
<b>Other key non-monetised costs</b> by 'main affected groups': Costs to consumers who find it more difficult or costly to purchase seal products. Potential costs to businesses for administrative burdens, potential delays at customs and higher costs of purchasing alternatives to seal products.				

<b>4.</b>	<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups'	
		<b>One-off</b> <span style="float: right;">Yrs</span>		
		<b>£ 0</b>		
		<b>Average Annual Benefit</b> (excluding one-off)		
		<b>£ 0</b>	<b>Total Benefit (PV)</b>	<b>£</b>
<b>Other key non-monetised benefits</b> by 'main affected groups' Up to 20 UK prosecutions a year resulting from infringements of the EU regulation; these will be valued by members of the public who are concerned about current hunting practices.				

**Key Assumptions/Sensitivities/Risks:** Assumed that volume of trade that may contain seal products is constant. Various other assumptions used in cost calculations are set out in the evidence base. 5 year time period to match the review period.

Price Base Year 2010	Time Period Years 5	<b>Net Benefit Range (NPV)</b> <b>£ (-) 8.9m - (-) 33.9m</b>	<b>NET BENEFIT (NPV Best estimate)</b> <b>£ (-) 21.5m</b>
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What is the geographic coverage of the policy/option?					UK
On what date will the policy be implemented?					20 August 2010
Which organisation(s) will enforce the policy?					UKBA, HMRC, LAs
What is the total annual cost of enforcement for these organisations?					£ NA
Does enforcement comply with Hampton principles?					Yes
Will implementation go beyond minimum EU requirements?					No
What is the value of the proposed offsetting measure per year?					£ 0
What is the value of changes in greenhouse gas emissions?					£ 0
Will the proposal have a significant impact on competition?					No
Annual cost (£-£) per organisation (excluding one-off)		Micro 150	Small 150	Medium 150	Large 150
Are any of these organisations exempt?		No	No	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)				(Increase - Decrease)
Increase of	£ increase	Decrease of	£ 0	<b>Net Impact</b>
				<b>£ increase</b>

Key: Annual costs and benefits: Constant Prices (Net) Present Value

## Summary: Analysis & Evidence

<b>Policy Option: D</b>	<b>Description: Blanket approach to customs enforcement</b>
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<b>5. COSTS</b>	<b>ANNUAL COSTS</b>	Description and scale of <b>key monetised costs</b> by 'main affected groups' HMRC/UKBA: (i) enforcement checks £70.6m (p.a.); (ii) Seal Catch Certificate checks £44.8k (p.a.)  Local Authorities: investigations £225k (p.a.)  Competent Authority: check validity of Seal Catch Certificates £2.2k - £44.8k (p.a.)				
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 5px;"><b>One-off</b> (Transition)</td> <td style="width: 30%; text-align: center; padding: 5px;"><b>Yrs</b></td> </tr> <tr> <td style="padding: 5px;">£ 0</td> <td></td> </tr> </table>		<b>One-off</b> (Transition)	<b>Yrs</b>	£ 0	
	<b>One-off</b> (Transition)		<b>Yrs</b>			
	£ 0					
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 5px;"><b>Average Annual Cost</b> (excluding one-off)</td> </tr> <tr> <td style="padding: 5px;">£ 70.9m</td> </tr> </table>	<b>Average Annual Cost</b> (excluding one-off)	£ 70.9m				
<b>Average Annual Cost</b> (excluding one-off)						
£ 70.9m						
<b>Total Cost (PV)</b>		<b>£ 331m</b>				
Other <b>key non-monetised costs</b> by 'main affected groups': Costs to consumers who find it more difficult or costly to purchase seal products. Potential costs to businesses for administrative burdens, potential delays at customs and higher costs of purchasing alternatives to seal products.						

<b>6. BENEFITS</b>	<b>ANNUAL BENEFITS</b>	Description and scale of <b>key monetised benefits</b> by 'main affected groups'				
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 5px;"><b>One-off</b></td> <td style="width: 30%; text-align: center; padding: 5px;"><b>Yrs</b></td> </tr> <tr> <td style="padding: 5px;">£ 0</td> <td></td> </tr> </table>		<b>One-off</b>	<b>Yrs</b>	£ 0	
	<b>One-off</b>		<b>Yrs</b>			
	£ 0					
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 5px;"><b>Average Annual Benefit</b> (excluding one-off)</td> </tr> <tr> <td style="padding: 5px;">£ 0</td> </tr> </table>	<b>Average Annual Benefit</b> (excluding one-off)	£ 0				
<b>Average Annual Benefit</b> (excluding one-off)						
£ 0						
<b>Total Benefit (PV)</b>		<b>£</b>				
Other <b>key non-monetised benefits</b> by 'main affected groups' Up to 20 UK prosecutions a year resulting from infringements of the EU regulation; these will be valued by members of the public who are concerned about current hunting practices.						

**Key Assumptions/Sensitivities/Risks:** Assumed that volume of trade that may contain seal products is constant. Various other assumptions used in cost calculations are set out in the evidence base. 5 year time period to match the review period.

Price Base Year 2010	Time Period Years 5	<b>Net Benefit Range (NPV)</b> £ (-) 331m	<b>NET BENEFIT (NPV Best estimate)</b> £ (-) 331m
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What is the geographic coverage of the policy/option?	UK			
On what date will the policy be implemented?	20 August 2010			
Which organisation(s) will enforce the policy?	UKBA, HMRC, LAs			
What is the total annual cost of enforcement for these organisations?	£ NA			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£ 0			
What is the value of changes in greenhouse gas emissions?	£ 0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro 150	Small 150	Medium 150	Large 150
Are any of these organisations exempt?	No	No	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)		(Increase - Decrease)
Increase of £ increase	Decrease of £ 0	<b>Net Impact</b> £ increase

Key: Annual costs and benefits: Constant Prices (Net) Present Value



## Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

### 1) Background

There is a strong public perception that seal hunting is conducted in a manner that causes distress and suffering to the animals concerned. As a result some member states introduced a domestic ban on the import of seal products. Consultation by the European Commission led to 73,153 responses from 160 countries indicating significant dissatisfaction with seal hunting practices. Three member states (Belgium, Netherlands and Slovenia) have acted unilaterally as a result of concerned citizens to ban pinniped products. Germany had proposed a ban but this has been blocked by the Commission pending the implementation of harmonised arrangements. In the light of these developments the Commission concluded that intervention was necessary to harmonise arrangements across the EU and Regulation 1007/2009 was proposed and agreed as a result. The Regulation introduces an EU wide trade ban which affects all seal products other than those resulting from a traditional Inuit hunt or a programme to manage marine resources.

The majority of pinniped products consumed in the EU come from third countries (Canada, Greenland, Namibia, Norway and Russia) although killing and production does exist in the EU (Finland and Sweden). There is a general prohibition on seal hunting in the EU and there is no commercial or recreational seal hunt in the UK. However, killing seals is allowed under certain circumstances, such as for research purposes or if the seal poses a threat to fisheries and equipment.

Consultation undertaken by the European Commission resulted in 75,153 responses plus a further 1,000 emails on the issue. The majority of these were apparently dissatisfied with current hunting techniques. The Government regularly receives correspondence on this issue and is subject to NGO campaigns seeking a ban on the trade in pinniped products in response to the commercial Canadian pinniped hunt. In 2008 BIS answered 510 e-mails/letters on this issue alone. A pinniped trade ban is consistently in the top 3 departmental correspondence topics and in previous years NGO postcard campaigns have generated over 250,000 responses. Defra and FCO have also received very high levels of correspondence, although the number of written communications to all departments has reduced significantly since the EU agreed to introduce a ban.

EU Regulation 1007/2009 prohibits the placing on the market of products from seals and other pinnipeds, which includes imports and intra-Community trade unless they:

- result from traditional hunts conducted by Inuit and other indigenous communities and contribute to their subsistence;
- are for personal use; or
- result from hunts regulated under national law with the sole purpose of the sustainable management of marine resources and where the products are marketed on a non-profit basis.

The ban will come into effect on 20 August 2010. The Regulation has no impact on the export of seal products by the UK or any other Member State. The trade ban introduced by the Regulation will not apply to seal products first placed on the market before 20 August 2010 or products first offered for hire before that date.

Commission implementing regulations are currently being discussed. As currently drafted these will establish procedures for applying the Inuit and marine management provisions in Regulation 1007/2009. These will amend and supplement non-essential elements of the EU Regulation by introducing arrangements for issuing Seal Catch Certificates in relation to seal products resulting from traditional Inuit hunting practices and sustainable marine management activities. Seal catch certificates will be issued by certification bodies recognised by the Commission for this purpose. The Commission implementing regulations will also require member states to designate a competent authority responsible for verifying seal catch certificates.

The Impact assessment prepared when Regulation 1007/2009 was proposed indicated enforcement costs could range from £2,000 to £10,000,000 per annum. Non monetised costs were expected to have an impact on businesses using seal products, consumers who are unable to purchase seal products and local authorities. The Impact assessment concluded that the benefits of the policy are emotive and not possible to quantify without further work e.g. willingness to pay studies.

The trade ban applies to placing seal products on the market and the conditions for placing products on the market apply at the time or point of import for imported products. In the absence of further clarification the UK will apply this prohibition at the point products are released to free circulation i.e. when products cease to be the subject of customs control and are allowed on to the market and can circulate anywhere within the EU.

## 2) Pinniped Products

Pinniped species are predominantly harvested for their pelts. Pinniped skins are used to make water-proof jackets and boots whilst pinniped fur is used to make fur coats. Pinniped products are also used in the manufacture of omega 3 supplements. The penis is sold as it is considered an aphrodisiac in China but very little of the other meat is sold. Pinniped fur is also used in the manufacture of some sporrans. UK manufacturers have confirmed that only pinniped skins are imported and are not aware of any imports of other pinniped products.

## 3) Proportionality

This proposal will have a fairly limited impact on consumers and businesses. UK imports of pinniped products were estimated to be just £175,000 (approx. 0.0001% of total UK imports) in 2007. The EU impact assessment has higher import figures taken from export data from commercial pinniped hunting countries, but this includes transit trade (goods that do not enter into free circulation in the EU and therefore do not show up on EU import statistics). Transit trade is not affected by Regulation 1007/2009. It is estimated that the 18 commodity codes most likely to be affected by a ban on trade in pinniped products will impact on some 50,000 consignments entering the UK per annum.

## 4) Options

The purpose of this impact assessment is to consider what implementation and enforcement options are available to the UK at this time.

There are a number of options currently available to the UK:

A) **No action:** We could take no action to implement regulation 1007/2009. While the regulation would be directly applicable in the UK from 20 August 2010 there would be no mechanism for enforcing the regulation in the UK and no penalties for breaches. As a result the UK would not comply with Article 6 of Regulation 1007/2009 and infraction proceedings could be expected. This option is not considered further.

B) **“light touch” approach:** For imports this approach would involve UKBA / HMRC taking enforcement action where, in the course of routine customs checks, there is clear evidence of attempts to breach the Regulation. Any import declaration for free circulation that is for a specific pinniped commodity code or indicates a seal certificate is attached will be subject to a 100% mandatory pre-clearance documentary check by HMRC’s National Clearance Hub. For intra community trade no targeted enforcement would be undertaken with trading standards bodies undertaking enforcement action in response to complaints in line with their own enforcement and budgetary priorities.

C) **Proactive risk-based approach:** For imports this would involve selective anti smuggling checks involving documentary checks followed up by physical checks as appropriate on high risk products and entry routes into the UK. The costs and success of such an approach depends on the quality of the risk information provided to HMRC and the percentage of consignments on which checks are made. For intra community trade local trading standards bodies would be placed under a duty to investigate complaints.

D) **Blanket approach:** For imports this would involve routine documentary and physical checks of consignments regardless of risk. For intra community trade local trading standards bodies would be placed under a duty to investigate complaints and to conduct spot checks on a routine basis.

Option B is the preferred approach. Enforcement cost and the disruptive effect of enforcement activity is kept to a minimum. This approach can be justified in view of the very low levels of trade in seal products (see Section 6, Table 2) which can be expected to reduce further following implementation of Regulation 1007/2009.

The costs and benefits of Options B, C and D have been estimated in relation to Option A, which is the current status quo for monitoring seal trade.

## 5) Costs and Benefits

Upon import, consignments containing pinniped products will need to be checked to ensure they are covered by valid certificates and they relate to the species imported. In cases of doubt physical examination may be required. The presence of a pinniped product may need to be determined using DNA testing to differentiate it from other fur products.

The scale of these costs will depend on the nature and degree of enforcement undertaken by UKBA / HMRC. This is for individual member states to decide. The implementation costs will include:

- Costs of documentary checks by UKBA / HMRC in relation to seal catch certificates;
- Costs of physical examinations on import and export consignments at the border carried by the UK Border Agency or any post importation compliance action taken by HMRC;
- Costs of determining the product is from a pinniped i.e. forensic DNA testing costs;
- Publicity costs for importers and exporters;

- UKBA costs for disposal and destruction costs for confirmed prohibited goods seized at the border.
- Costs of any court or tribunal proceedings in relation to seized goods or other appeal procedures used by importers or exporters,

Enforcement costs will depend on the type and frequency of enforcement checks. The costs below reflect anticipated import levels for the 18 tariff codes most likely to be affected by a ban on trade in pinnipeds. Costs are shown on a number of different assumptions relating to the number of countries targeted, the percentage of consignments checked, and the type of check undertaken.

Four implementation options have been identified. The following assumptions are common to options B, C & D:

- There will be no overall reduction in the number of consignments involving the 18 tariff codes most likely to be affected by a ban on trade in pinnipeds following the introduction of the EU ban as most relate to clothing, foot ware or other products which might include pinniped trimming or ingredients
- Where consignments are subject to a physical check 50% will require DNA testing to be undertaken;
- A physical check will cost £450
- DNA testing (minimum 3 samples tested per consignment) will cost £1,500
- Documentary checks cost £10.
- Checks by the competent authority to verify a seal Catch Certificate will cost £50
- Of consignments involving the 18 tariff codes most likely to be affected by the ban it is assumed 50% of consignments from Canada, Norway, Greenland, Russia and Namibia (275), 10% of consignments from the USA and South Africa (2,582) and 5% of consignments from other countries (1,624) will enter the UK with a Seal Catch Certificate after the ban comes into effect.
- Local Authorities will receive a total of 100 complaints per annum from members of the public concerning seal products which are on the market illegally
- Half the complaints investigated by Local Authorities will require DNA testing
- A local authority investigation will involve 1.5 days of staff time at a cost of £250 per day

**Option A – No Action.** This option would involve minimal implementation costs but carries the risk of significant cost and penalties flowing from infraction proceedings. In addition it would give rise to considerable uncertainty as to how Regulation 1007/2009 would be enforced and implemented in the UK. For these reasons this option is not considered further. As no action is currently being taken to monitor the trade in general seal products this option has been used as the baseline.

**Option B - “light touch” approach:** For imports this approach would involve UKBA / HMRC taking enforcement action where in the course of routine customs checks, there is clear evidence of attempts to breach the Regulation. Any import declaration for free circulation that is for a specific pinniped commodity code or indicates a seal certificate is attached will be subject to a 100% mandatory pre-clearance documentary check by HMRC’s National Clearance Hub. For intra community trade no targeted enforcement would be undertaken with trading standards bodies undertaking enforcement action in response to complaints in line with their own

enforcement and budgetary priorities. Costs would depend on the level of attempted breach of the prohibition.

**UKBA / HMRC cost of enforcement checks:**

Based on experience enforcing the EU cat and dog fur trade ban, where a light touch enforcement approach applies, it can be anticipated that few consignments will need to be subjected to additional checks beyond those undertaken by the HMRC National Clearance Hub. The cost of additional checks of 0.5% and 1% of consignments involving the 18 tariff codes most likely to be affected by the ban would be:

Country	18 Identified Commodity Codes - Number of Consignments with SCC	Type of Check	Cost of 0.5% Checks (£)	Cost of 1% Checks (£)
Top 5	549	Documentary	27	55
		Physical	1,235	2,471
		DNA	2,059	4,118
	<b>Total cost</b>		3,321	6,643
US and South Africa	25,820	Documentary	1,291	2,582
		Physical	58,095	116,190
		DNA	96,825	193,650
	<b>Total cost</b>		154,920	309,840
Other Countries	32,471	Documentary	1,624	3,247
		Physical	73,060	146,120
		DNA	121,766	243,533
	<b>Total cost</b>		194,826	389,652
All	58,840	Documentary	2,915	5,829
		Physical	131,182	262,364
		DNA	220,650	441,300
	<b>Total cost</b>		351,832	703,664

**HMRC cost of Seal Catch Certificate checks:**

It will be necessary for HMRC to check all Seal Catch Certificates where these accompany consignments. The cost associated with these additional documentary checks will be:

Country	18 Identified Commodity Codes - Number of Consignments with SCC	Cost of Documentary Checks (£)
Top 5	275	2,745

US and South Africa	2,582	25,820
Other Countries	1,624	16,236
	<b>Total cost</b>	44,801

### Local authority costs:

Under the light touch approach it is assumed that enforcing the seal trade ban will be a low priority for most local authorities. On this basis it is assumed 100 complaints per annum will lead to some 20 investigations annually with half requiring DNA testing. This implies an annual cost of £7,500 for staff time and £15,000 for DNA testing.

### Competent authority costs:

The competent authority is expected to check the validity of a seal catch certificate at the request of the customs authority. Based on the assumptions set out above the cost would be:

Country	18 Identified Commodity Codes - Number of Consignments with SCC	Cost of 1% Checks (£)	Cost of 10% Checks (£)	Cost of 20% Checks (£)
Top 5	275	137	1,373	2,745
US and South Africa	2,582	1,291	12,910	25,820
Other Countries	1,624	812	8,118	16,236
	<b>Total cost</b>	2,240	22,400	44,801

### Cost to Government

There is a risk that a light touch approach to enforcement might be challenged by the Commission. If this were to be the case the Government would incur additional cost defending the chosen approach.

For all the relevant authorities together, the total enforcement cost of the “light touch” approach is between £421,000 and £816,000 per year. The actual cost incurred is expected to be towards the bottom end of this range.

**Option C - Proactive risk-based approach:** For imports this would involve selective anti smuggling checks involving documentary checks followed up by physical checks as appropriate on high risk products and entry routes into the UK. The costs and success of such an approach depends on the quality of the risk information provided to HMRC and the percentage of consignments on which checks are made. For intra community trade local trading standards bodies would be placed under a duty to investigate complaints.

### UKBA / HMRC cost of enforcement checks:

It is assumed that under a risk based approach physical checks would be conducted on a representative sample of consignments covering the 18 commodity codes most likely to be affected by the ban. The cost of 2.5%, 5% and 10% checks are as follows:

Country	18 Identified Commodity Codes - Number of Consignments with SCC	Type of Check	Cost of 2.5% Checks (£)	Cost of 5% Checks (£)	Cost of 10% Checks (£)
Top 5	549	Documentary	137	275	549
		Physical	6,176	12,353	24,705
		DNA	10,294	20,588	41,175
	<b>Total cost</b>		16,470	32,940	65,880
US and South Africa	25,820	Documentary	6,455	12,910	25,820
		Physical	290,475	580,950	1,161,900
		DNA	484,125	968,250	1,936,500
	<b>Total cost</b>		774,600	1,549,200	3,098,400
Other Countries	32,471	Documentary	8,118	16,236	32,471
		Physical	365,299	730,598	1,461,195
		DNA	608,831	1,217,663	2,435,325
	<b>Total cost</b>		974,130	1,948,260	3,896,520
All	58,840	Documentary	14,710	29,420	58,840
		Physical	661,950	1,323,900	2,647,800
		DNA	1,103,250	2,206,500	4,413,000
	<b>Total cost</b>		1,765,200	3,530,400	7,060,800

**UKBA / HMRC cost of Seal Catch Certificate checks:**

This cost would be the same as that shown under Option B

**Local authority costs:**

It is assumed that 100 complaints will be received annually and that all will be investigated. On this basis staff time costs would be £37,500 and DNA testing would cost some £75,000 annually.

**Competent authority costs:**

This cost would be the same as that shown under Option B

For all the relevant authorities together, the total enforcement cost of the proactive risk-based approach is between £1.9 million and £7.1 million per year.

**Option D - Blanket approach:** For imports this would involve routine documentary and physical checks of consignments regardless of risk. For intra community trade local trading standards bodies would be under a duty to follow up complaints and to conduct spot checks on a routine basis.

**UKBA / HMRC cost of enforcement checks:**

It is assumed that under a blanket approach physical checks would be conducted on all consignments covering the 18 commodity codes most likely to be affected by the ban. The cost would be as follows:

Country	18 Identified Commodity Codes - Number of Consignments with SCC	Type of Check	Cost of Checks (£)
All Countries	58840	Documentary	588,400
		Physical	26,478,000
		DNA	44,130,000
	<b>Total cost</b>		<b>70,608,000</b>

**Local authority costs:**

It is assumed that 100 complaints will be received annually and that all will be followed up. In addition a further 100 spot checks will be conducted. On this basis staff time costs would be £75,000 and DNA testing would cost some £150,000 annually.

**HMRC cost of Seal Catch Certificate checks:**

This cost would be the same as that shown under Option B

**Competent authority costs:**

This cost would be the same as that shown under Option B

For all the relevant authorities together, the total enforcement cost of the proactive risk-based approach is some £71 million per year.

**Cost to consumers**

For Options B, C and D, consumers of pinniped products will find it more difficult or costly to purchase such products. Without further work, it is not possible to monetise this cost. However, we broadly estimate that the cost to these consumers will increase as supply of pinniped products decreases. This implies that the cost to these consumers will vary but be lowest under Option B; and highest under Option D.

These particular consumers are unlikely to object to the hunting and killing of pinnipeds so would not value the policy directly implemented by the EU regulations.

**Costs to Business**

The potential costs are:

- **Administrative costs:** All traders (including hire companies) of pinniped products will need to maintain records to demonstrate that individual seal products can be traded or hired legally by maintaining records to show the item was first offered for sale or hire before 20 August 2010 or the product falls under the seal catch certificate arrangements. We have no information on the number of traders involved in the sale



or hire of products that might be affected by the seal trade ban. Establishing records for existing stock will be a one off cost. If it takes one day of middle manager time to establish the records involved the one off cost could be about £150 per business. Ongoing cost should be minimal although traders will need to ensure they keep copies of Seal Catch Certificates provided for items they stock.

- **Monitoring:** There will also be costs associated with monitoring such as delays at the port caused by spot checks by Customs. These costs affect a range of traders, and not just those involved with pinniped products. This cost will vary and will be lowest under the light touch approach – Option B
- **Costs to business that use pinniped products:** There may be a cost to traders that currently sell pinniped products in the EU in that they will be forced to purchase alternative materials for their goods as the legal supply of pinniped materials will be restricted. Where alternatives are more expensive traders may not be able to pass all of the additional costs on to consumers. It is difficult to estimate the scale of such costs but in view of the low level of seal product imports into the UK the total impact is expected to be small. However the impact on a small number of individual businesses could be more acute.

## **Benefit**

EU Regulation 1007/2009 will deliver social benefits as the measure is expected to reduce the market for pinniped products leading to a reduction in overseas production and associated hunting. This will benefit those who are concerned about the suffering and distress associated with current hunting practices.

This means that UK enforcement of this EU Regulation will deliver benefits to these members of the public if the enforcement itself reduces the amount of seal products used in the UK or if those that continue to trade seal products are prosecuted. Based on experience enforcing the EU cat and dog fur trade ban, there are likely to be very few, if any, prosecutions if we adopt a light touch approach, Option B. However, we estimate that there will only be up to twenty prosecutions a year under either the targeted risk-based approach or blanket approach to enforcement.

This means that the benefit to these members of the public will be smallest under Option B, and larger under Options C and D. However, given the small number of prosecutions anticipated, this benefit is unlikely to be significantly large enough under Options C or D to make the additional costs worthwhile.

## **Preferred approach**

The preferred approach to enforcement (Option B) will minimise disruption associated with enforcement which will benefit traders by keeping compliance costs to a minimum.

## **6) Estimates of trade covered**

Pinniped products are separately identified at the 6 digit level in the Harmonised System (HS), including raw fur skins, tanned skins and then final clothing products and accessories. What is not adequately measured is when parts of a pinniped are used in different forms, i.e., on a key-ring or some other product that might not fall under any of these categories. This would make it hard for Customs Officials to prevent these products from being imported or exported.

Identifying the main categories of products under which pinniped might be imported can give some indication of the possible scale of the enforcement regime needed and associated costs incurred by UKBA / HMRC that would be necessary to effect the proposed ban.

In 2007 UK trade was as follows:

<b>Table 2 - UK trade in fur-skins and clothing of pinniped during 2007</b>				
	Intra EU exports	Extra EU exports	Intra EU imports	Extra EU imports
UK Trade intra/extra EU (£000's)				
Raw fur-skins (pups)	-	-	-	-
Raw fur-skins (excl. pups)	-	-	-	-
Fur-skins (pups)	-	-	-	-
Fur-skins (excl. pups)	2	-	116	59
Clothing And Clothing Accessories	-	14	-	-
<b>TOTAL ABOVE</b>	<b>2</b>	<b>14</b>	<b>116</b>	<b>59</b>

(note: Data is from Eurostat and covers trade in seven commodity codes: 43017010, 43017090, 43021941, 43021949, 43023051, 43023055, 43031010)

UK imports of pinniped products both intra and extra EU totalled £175,000 (approx. 0.0001% of total UK imports).

As the trade ban applies at the point of import to the EU intra community trade is not affected. This means that around £60,000 of trade would be covered by the enforcement regime at the border. This is equivalent to a tiny fraction of all UK goods imports. Intra community trade would be a matter for enforcement by local authorities.

## **7) Complementary Impact Assessments:**

### **Competition Assessment**

The proposal would likely affect mainly the fur market, although pinniped products may be used in other products e.g. fish oil supplements. Market structure and conditions of competition will vary from product to product. However, all these markets tend to be highly fragmented and are subject to international competition making it highly unlikely that any single firm holds a dominant position.

The proposal is non-discriminatory in that all firms in these sectors will be unable to import, export or market pinniped products. As these regulations apply directly to all countries in the EU, none of these options are likely to put UK firms at a competitive disadvantage compared with firms in other EU member states. Firms most affected by the proposal are clearly those that

use pinniped in their products, but this is not likely to have any significant implications for competition.

### **Small Firms Impact Test**

Importers will inevitably bear some of the costs of complying with these regulations. This is likely to be either through authorities recovering increased enforcement costs from traders or the direct costs to traders of switching to alternative fur products. Small firms are likely to have lower product diversity than larger companies so may be affected more than firms that import various different furs etc. However, it is likely that the costs for each of these firms will be proportional to the volume of pinniped products used, so the costs to small firms are unlikely to be disproportionate. The processes and requirements of this regulation have been considered with small businesses in mind and can be complied with by SMEs in their normal course of business.

### **Legal Aid**

This issue has been considered and no impact is anticipated

### **Sustainable Development**

This issue has been considered and no impact is anticipated

### **Carbon Assessment**

This issue has been considered and no impact is anticipated

### **Other Environment**

This issue has been considered and no impact is anticipated

### **Health Impact Assessment**

This issue has been considered and no impact is anticipated

### **Race Equality**

This issue has been considered and no impact is anticipated

### **Disability Equality**

This issue has been considered and no impact is anticipated

### **Gender Equality**

This issue has been considered and no impact is anticipated

### **Human Rights**

This issue has been considered and no impact is anticipated

### **Rural Proofing**

This issue has been considered and no impact is anticipated

## **8) Enforcement**

For imports enforcement will be undertaken by UKBA / HMRC at the point goods are released to free circulation. The preferred approach will rely on documentary checks undertaken as part of the routine customs checks undertaken in relation to all goods imported to the UK. So far as intra community trade is concerned some costs could be incurred by local authorities where they decide following up complaints is in line with local enforcement priorities.

## **9) Risk Analysis**

The following risks should be identified:

- The volume of imports might not fall in line with the assumptions made
- The number of complaints received by Local authorities might be higher than estimated
- A light touch approach to enforcement will not be considered sufficiently robust by the Commission
- New funding to support enforcement activities is not available

## **10) Admin Burdens**

Under the Commission proposal and the proposal recommended in this IA (option B) businesses who continue to purchase pinniped products will have to ensure that the correct certification is provided for the products that they source. They will also need to ensure records are maintained where seal products were placed on the market or offered for hire for the first time before 20 August 2010. These processes reflect continued business as usual.

## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No