

Council Regulation (EC) No 1936/2001 of 27 September 2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish

CHAPTER I

CONTROL AND INSPECTION MEASURES APPLICABLE IN ZONE 1

Section 1

Control measures

Article 4

Catch sampling

1 Sampling of catches shall be carried out in accordance with the provisions laid down in Council Regulation (EC) No 1543/2000 of 29 June 2000 establishing a Community framework for the collection and management of the data needed to conduct the common fisheries policy⁽¹⁾ and the requirements of the 'Field manual for statistics and sampling Atlantic tunas and tuna-like fishes' (Third edition, ICCAT, 1990).

2 Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 24(2).

Article 5

Catch notification

1 Member States shall transmit to the Commission, which in turn will transmit to the ICCAT Executive Secretariat, the annual nominal catch data (task I as defined by ICCAT), for those species that are indicated in Annex II. In order to fulfil the requirements of ICCAT, the data transmission from the Member States to the Commission shall be not later than:

1 March of following year: preliminary estimates for entire year;

15 April of following year: definitive estimates.

2 Member States shall transmit the following data (task II as defined by ICCAT) annually before 31 July to the ICCAT Executive Secretariat with electronic access for the Commission:

a catch and fishing effort data for the previous year, giving a detailed spatio-temporal breakdown;

b any data they have on sport fishing catches of fish of the species listed in Annex I.

3 Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 24(2).

Article 6

Information on shark catches

1 Member States shall transmit any available data on catches of and trade in sharks to the ICCAT Executive Secretariat with electronic access for the Commission.

2 Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 24(2).

Article 7

Undeclared catches

For imports of frozen bluefin tuna and bigeye tuna products fished by long liners greater than 24 metres overall in length, at the Commission's request Member States shall collect and examine as much import data as possible and all related information such as vessel names, their registration and owner, species fished and weight, fishing zone and place of export.

Article 8

Observation of vessels

1 For the purposes of this Article 'observation' means any observation, by a Member State's vessel, aircraft or competent authority responsible for inspection at sea, of:

- a stateless vessel likely to be fishing for species listed in Annex I,
- or a vessel flying the flag of another Contracting Party and likely to be fishing in breach of ICCAT conservation measures,
- or a vessel flying the flag of a non-Contracting Party, entity or fishing entity and likely to be fishing in breach of ICCAT conservation measures.

2 The observation shall be transcribed onto a standard observation form and shall if possible give all the information for which that form provides. It may be accompanied by photographs of the vessel.

3 Observation forms shall be sent without delay to the competent authority of the observer's Member State, which shall immediately transmit them to the Commission, which shall inform the flag country of the vessel observed. The Commission shall immediately transmit observation forms to the ICCAT Executive Secretariat.

4 A Member State receiving observations on the activity of a vessel flying its flag from the competent authority of a Contracting Party shall immediately notify these and all relevant information to the Commission, which shall notify this information in due time to the Executive Secretariat for examination by the Compliance Committee.

5 Masters of Community fishing vessels shall transmit to their authority any information on vessels assumed to be fishing for bigeye tuna in the Convention area that are not on the list drawn up by the ICCAT Executive Secretariat. Member States shall notify these observations as soon as possible to the Commission, which shall inform the ICCAT Executive Secretariat.

6 Detailed rules for the application of this Article on the layout and the requirements of the observation form referred to in paragraph 2 shall be adopted in accordance with the procedure referred to in Article 24(2).

Article 9

Annual report

1 Before 15 June each year Member States shall send the Commission a national report, using the layout adopted by ICCAT and including (a) information on implementation of the satellite surveillance system and (b) an 'ICCAT declaration table' for each fishery accompanied by comments, *inter alia* on breaches of the tolerance margins set by ICCAT for the minimum sizes of certain species and the action taken or to be taken. Member States shall also say how sport fishing for fish of the species listed in Annex I is regulated and give details of any transshipment operations involving their vessels during the previous year.

2 Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 24(2).

Section 2

Port inspection procedures

Article 10

General

1 Member States shall assign to inspection duties at their ports inspectors responsible for the surveillance and inspection of transshipment and landing of the species listed in Annex I.

2 Member States shall ensure that inspection is non-discriminatory and in line with ICCAT port inspection arrangements.

3 The port State may, *inter alia*, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.

Article 11

Inspectors

1 Member States shall issue a special identification document to each ICCAT inspector which he must carry and present before making an inspection. The particulars of the card shall be determined in accordance with the procedure referred to in Article 24(2). Member States shall notify a list of their inspectors to the Commission for transmission to the ICCAT Executive Secretariat.

2 Member States shall ensure that ICCAT inspectors discharge their tasks in conformity with the rules laid down in the ICCAT port inspection arrangements. Inspectors shall remain under the operational control of their competent authority and be responsible to it for their acts.

Article 12

Inspection procedures

- 1 Member States shall ensure that their ICCAT inspectors:
 - in making their inspections cause minimum disturbance to the vessel's activities and cause no deterioration in fish quality,
 - draw up an inspection report in line with rules laid down in accordance with the procedure referred to in Article 24(2) and transmit it to their authority.
- 2 Inspectors have the ability to examine all zones, decks and chambers of the vessel, catches (processed or not), gear, equipment and any documentation thought to be needed to check compliance with the conservation measures adopted by ICCAT, including the log book and the loading papers in the case of mother ships and carriers.
- 3 Inspectors shall sign their report in the presence of the master, who shall have the right to add or cause to be added any information that he considers relevant and sign it. The inspector shall indicate in the log book that an inspection has been made.

Article 13

Master's obligations during inspection

Masters of Community vessels shall:

- (a) raise no objection to inspections in national or foreign ports by authorised inspectors, not try to intimidate them or incommode them in the course of their work and ensure their safety;
- (b) cooperate in inspection of the vessel performed in accordance with the procedures laid down in this Regulation and lend their assistance thereto;
- (c) afford inspectors the means of examining the zones, decks and chambers of the vessel, catches (processed or not), gear, equipment and all documents, including fishing logs and loading papers.

Article 14

Procedure in event of infringement

- 1 If an ICCAT inspector has serious reason to believe that a fishing vessel has engaged in an activity breaching the conservation measures adopted by ICCAT, he shall:
 - a note the infringement in the inspection report;
 - b take all necessary action to ensure safekeeping of the evidence for it;
 - c immediately send the inspection report to his authority.
- 2 The inspecting Member State shall immediately send the original inspection report to the Commission, which shall immediately transmit it, with a copy to the ICCAT Executive Secretariat, to the competent authority of the flag country of the inspected vessel.

Article 15

Follow-up of infringements

- 1 If a Member State is notified by an ICCAT Contracting Party or another Member State of an infringement by a vessel flying its flag, it shall take speedy action in line with its national legislation to obtain and examine the evidence, carry out any necessary investigation and if possible inspect the vessel.
- 2 Each Member State shall name the authority mandated to receive evidence of infringements and notify its name, address and other contact particulars to the Commission.
- 3 The flag Member State shall notify the Commission, which shall in turn notify the ICCAT Executive Secretariat, of the penalties imposed and measures taken with regard to the vessel concerned.

Article 16

Treatment of inspection reports

- 1 Each Member State shall attach the same value to reports made by ICCAT inspectors of other Member States and other Contracting Parties as to those made by its own inspectors.
- 2 Each Member State shall cooperate with the Contracting Parties concerned by facilitating, in line with its national legislation, legal or other proceedings arising from a report submitted by an ICCAT inspector under the ICCAT port inspection arrangements.

Section 3

Stateless and non-contracting parties' vessels

Article 17

Transshipment

- 1 Community fishing vessels may not receive transshipments of fish of the species listed in Annex I from stateless vessels or those flying the flag of a non-Contracting Party that does not have the status of a cooperating party, entity or fishing entity.
- 2 The list of cooperating parties, entities and fishing entities adopted by ICCAT is published by the Commission in the *Official Journal of the European Communities C series*).
- 3 Before 15 September each year Member States shall send the Commission particulars of transshipments of fish of the species listed in Annex I made during the previous year between vessels flying their flag and vessels flying the flag of a non-Contracting Party enjoying the status of cooperating party, entity or fishing entity. The Commission shall forward this information to the ICCAT Executive Secretariat.

Article 18

Control measures for fishing activities

1 The competent authority of a Member State that has boarded and/or inspected a stateless vessel shall immediately inform the Commission of the inspection findings and of any action it has taken under international law. The Commission shall send this information as soon as possible to the ICCAT Executive Secretariat.

2 Member States shall ensure that every stateless or non-Contracting Party vessel that enters a designated port within the meaning of Article 28(e)(2) of Regulation (EEC) No 2847/93 is inspected by their competent authority. Until inspection is completed the vessel's catches may not be landed or transhipped.

3 If inspection reveals that the vessel has on board resources covered by an ICCAT recommendation in force the Member State shall prohibit their landing or transhipment.

4 The prohibition referred to in paragraph 3 shall not be issued if the master of the inspected vessel or his representative demonstrates to the competent authority's satisfaction that:

- a the catches on board were taken outside the zone; or
- b the catches on board were taken without infringing the conservation measures in force.

Article 19

Member States' nationals

Each Member State shall try, as its national legislation permits, to deter its nationals from participating in activities of non-Contracting Parties that conflict with implementation of the ICCAT conservation and management measures.

(1) [OJ L 176, 15.7.2000, p. 1.](#)