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**COUNCIL REGULATION (EC) No 1936/2001**

**of 27 September 2001**

**laying down control measures applicable to fishing for certain stocks of highly migratory fish**

(OJ L 263, 3.10.2001, p. 1)

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**COUNCIL REGULATION (EC) No 1936/2001**

**of 27 September 2001**

**laying down control measures applicable to fishing for certain stocks of highly migratory fish**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Whereas:

- (1) The Community has since 14 November 1997 been a Contracting Party to the International Convention for the Conservation of Atlantic Tunas <sup>(3)</sup> (hereinafter referred to as the ICCAT Convention).
- (2) The ICCAT Convention provides a framework for regional cooperation on the conservation and management of resources of tuna and tuna-like fish in the Atlantic ocean and adjacent seas through an International Commission for the Conservation of Atlantic Tunas (hereinafter referred to as ICCAT), and the adoption of recommendations on conservation and management in the Convention area that become obligatory for Contracting Parties.
- (3) ICCAT has adopted a number of recommendations creating control and surveillance obligations, notably on the establishment and transmission of statistics, inspection in port, vessel surveillance by satellite, vessel observations and transshipments, and checks on non-contracting parties and on stateless vessels. These recommendations have become obligatory for the Community and should therefore be implemented.
- (4) Certain obligations have been transposed by Council Regulation (EC) No 1351/1999 of 21 June 1999 laying down certain control measures to ensure compliance with the measures adopted by ICCAT <sup>(4)</sup> and into Article 22(1) of Council Regulation (EC) No 2742/1999 of 17 December 1999 fixing for 2000 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters and, for Community vessels, in waters where limitations in catch are required and amending Regulation (EC) No 66/98 <sup>(5)</sup>. For reasons of clarity these measures should be incorporated in a single Regulation, repealing and replacing former Regulations.
- (5) For scientific research purposes masters of Community fishing vessels should be required to comply with the instructions of the 'Operational manual for statistics and sampling of tuna and tuna-like fish in the Atlantic Ocean' published by ICCAT.
- (6) The Community has approved the Agreement for the establishment of the Indian Ocean Tuna Commission <sup>(6)</sup>, (hereinafter referred to as IOTC). The Agreement provides a useful framework for strengthening international cooperation for the purpose of conserving and rationally utilising Indian Ocean tuna and related species, through creation of the IOTC and the adoption of recommendations on conservation and management in its

<sup>(1)</sup> OJ C 62 E, 27.2.2001, p. 79.

<sup>(2)</sup> Opinion delivered on 28 February 2001 (not yet published in the Official Journal).

<sup>(3)</sup> OJ L 162, 18.6.1986, p. 34.

<sup>(4)</sup> OJ L 162, 26.6.1999, p. 6.

<sup>(5)</sup> OJ L 341, 31.12.1999, p. 1. Regulation as last amended by Regulation (EC) No 2765/2000 (OJ L 321, 19.12.2000, p. 5).

<sup>(6)</sup> OJ L 236, 5.10.1995, p. 24.

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area of competence that become binding on Contracting Parties. The Community should apply the control measures adopted by the IOTC.

- (7) The IOTC has adopted a recommendation on the recording and exchange of information on tropical tuna. This is binding on the Community, which should therefore implement it.
- (8) The Community has fishing interests in the Eastern Pacific and has initiated the procedure for accession to the Inter-American Tropical Tuna Commission, (hereinafter referred to as IATTC). Pending accession and in line with its cooperation requirement arising under the United Nations Convention on the Law of the Sea, it should apply the control measures adopted by the IATTC.
- (9) The Community, which has signed the Agreement on the International Dolphin Conservation Programme <sup>(1)</sup>, has decided by Decision 1999/386/EC <sup>(2)</sup> to apply it provisionally pending its approval, and should therefore apply its control measures.
- (10) In order to ensure the respect of the applicable control measures of the IOTC, IATTC and of the Agreement on the International Dolphin Conservation Programme, Member States should take the necessary action.
- (11) Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy <sup>(3)</sup> applies to all fishing activities and all associated activities carried out on the territory and in the maritime waters subject to the sovereignty or jurisdiction of Member States, including those of Community fishing vessels operating in the waters of third countries or on the high seas, without prejudice to fishery agreements concluded between the Community and third countries or international conventions to which the Community is a Party.
- (12) The measures necessary for implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for exercise of implementing powers conferred on the Commission <sup>(4)</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Purpose**

This Regulation lays down control and inspection measures relating to fishing for stocks of the highly migratory fish species listed in Annex I to this Regulation and shall apply to vessels flying the flag of Member States and registered in the Community, (hereinafter referred to as Community fishing vessels), operating in one of the zones specified in Article 2.

*Article 2*

**Zones**

For the purposes of this Regulation the following marine zones are specified:

(a) Zone 1:

All waters of the Atlantic Ocean and adjacent seas included in the ICCAT Convention area specified in Article I of that Convention.

<sup>(1)</sup> OJ L 132, 27.5.1999, p. 1.

<sup>(2)</sup> OJ L 147, 12.6.1999, p. 23.

<sup>(3)</sup> OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2846/98 (OJ L 358, 31.12.1998, p. 5).

<sup>(4)</sup> OJ L 184, 17.7.1999, p. 23.

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## (b) Zone 2:

All Indian Ocean waters included in the area of competence specified in Article II of the Agreement for the establishment of the IOTC.

## (c) Zone 3:

All Eastern Pacific Ocean waters included in the area specified in Article III of the Agreement on the International Dolphin Conservation Programme.

*Article 3***Definitions**

For the purposes of this Regulation the following definitions shall apply:

- (a) ‘boarding’: the boarding of a fishing vessel within an organisation's area of competence by one or more authorised inspectors in order to make an inspection;
- (b) ‘transshipment’: unloading of any quantity of highly migratory fish and/or products from such fish from on board a fishing vessel to another vessel either at sea or in port, without the products having been recorded by a port State as landed;
- (c) ‘landing’: unloading of any quantity of highly migratory fish and/or products from such fish from on board a fishing vessel to port or to land;
- (d) ‘infringement’: any presumed act committed or omitted by a fishing vessel that is recorded in an inspection report and gives serious reason for suspecting a breach of the provisions of this Regulation or any other Regulation transposing a recommendation adopted by a regional organisation for one of the zones indicated in Article 2;
- (e) ‘vessel of a non-Contracting Party’: vessel observed and identified as engaged in fishing activities in one of the zones specified in Article 2 that is flying the flag of a country that is not a Contracting Party to the relevant regional organisation;
- (f) ‘stateless vessel’: vessel for which there are reasonable grounds for suspecting it to be without nationality;

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- (g) ‘fattening’: raising of individuals in cages to increase their weight or fat content with a view to marketing;
- (h) ‘caging’: placing of wild individuals of any size in closed structures (cages) for fattening;
- (i) ‘fattening farm’: enterprise which raises wild individuals in cages for fattening;
- (j) ‘transport vessel’: vessel receiving wild individuals and transporting them live to fattening farms.

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## 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 <sup>(1)</sup> 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).

▼**M1***Article 4a***Activities of vessels participating in operations relating to bluefin tuna fattening**

1. Each master of a Community vessel that transfers bluefin tuna for fattening to a transport vessel shall enter in his logbook:
  - quantity of bluefin tuna transferred and the number of fish,
  - catch zone,
  - date and position of transfer of bluefin tuna,
  - name of transport vessel, its flag, registration number and international radio call sign,
  - name(s) of fattening farm(s) of destination of the quantity of bluefin tuna transferred.
2. Each master of a transport vessel to which bluefin tuna have been transferred shall enter:
  - (a) quantity of bluefin tuna transferred per fishing vessel and the number of fish;
  - (b) the name of the vessel that caught the quantities referred to in a), together with its flag, registration number and international radio call sign;
  - (c) date and position of transfer of bluefin tuna;
  - (d) name(s) of fattening farm(s) of destination of bluefin tuna.
3. The master shall be exempt from the obligation laid down in paragraph 2 if the entry is replaced with a copy of the transshipment declaration provided for in Article 11 of Regulation (EEC) No 2847/93 or a copy of document T2M referred to in Article 13 of Regulation (EEC) No 2847/93 indicating the information referred to in paragraph 2(c) of this Article.
4. Member States shall ensure that all bluefin tuna put into cages by vessels flying their flag are registered by their competent authority. They shall notify to the Commission, in line with Article 5, the quantities of bluefin tuna caught and caged by vessels flying their flag (task I as defined by ICCAT).

For exports and imports of bluefin tuna intended for fattening Member States shall send the Commission the numbers and dates of the statistical documents indicated in Council Regulation (EC) No 1984/2003 of

<sup>(1)</sup> OJ L 176, 15.7.2000, p. 1.

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8 April 2003 introducing a system for the statistical monitoring of trade in bluefin tuna, swordfish and bigeye tuna within the Community <sup>(1)</sup> validated by them and state the third country of destination declared.

5. Member States shall electronically send the Commission a list of all vessels flying their flag and registered in the Community that catch bluefin tuna for fattening. Notification shall be made by 30 April each year, the following information being given:

- (a) the vessel's internal number as defined in Annex I to Commission Regulation (EC) No 2090/98 <sup>(2)</sup>;
- (b) the name and address of its owner, operator or charterer.

6. Member States shall electronically send the Commission a list of all vessels authorised by them to provide or transfer bluefin tuna for fattening. Notification shall be made by 30 April each year, the following information being given:

- (a) name of vessel, its flag and its registration number;
- (b) any previous flags;
- (c) type (fish tanker, towed etc.) length and GT;
- (d) international radio call sign;
- (e) name and address of owner, operator or charterer.

*Article 4b*

**Activities of bluefin tuna fattening farms**

1. Member States shall act to ensure that bluefin tuna fattening farms under their jurisdiction submit a caging declaration as referred to in Annex 1a to their competent authority 72 hours after the end of each caging operation by a fishing or transport vessel. Submission of such declarations, containing all the information required under this Article, shall be the responsibility of fattening farms approved by Member States.

2. Member States shall act to ensure that fattening farms as indicated in paragraph 1 submit to them by 1 July each year a marketing declaration for the bluefin tuna fattened.

3. The marketing declaration for bluefin tuna fattened indicated in paragraph 2 must give the following information:

- name of farm,
- address,
- owner,
- quantity of bluefin tuna (in tonnes) marketed in previous year,
- destination of tuna (name of purchaser, country, date of sale),
- for exports and imports, numbers and dates of validation of statistical documents indicated in Regulation (EC) No 1984/2003,
- duration of fattening of tuna marketed (in months), where possible,
- average size of tuna marketed.

4. On the basis of the declaration submitted under paragraphs 1 and 3 Member States shall electronically notify to the Commission by 1 August each year:

- the quantities of bluefin tuna caged during the previous year,
- the quantities of bluefin tuna marketed during the previous year.

<sup>(1)</sup> OJ L 295, 13.11.2003, p. 1.

<sup>(2)</sup> OJ L 266, 1.10.1998, p. 27. Regulation as last amended by Regulation (EC) No 26/2004 (OJ L 5, 9.1.2004, p. 25).

**▼M1***Article 4c***Register of bluefin tuna fattening farms**

1. Before 30 April 2004 each Member State shall send the Commission electronically a list of the fattening farms under its jurisdiction which it authorises to conduct fattening operations on bluefin tuna caught in the Convention area.
2. The list referred to in paragraph 1 shall give the following information:
  - name of farm, its national registration number,
  - location of farm,
  - capacity of farm (in tonnes).
3. The Commission shall forward this information to the ICCAT Executive Secretariat before 31 August 2004 so that the fattening farms concerned are entered in the ICCAT register of farms authorised to conduct fattening operations on bluefin tuna caught in the ICCAT Convention area.
4. Any change to be made to the list indicated in paragraph 1 shall be notified to the Commission for transmission to the ICCAT Executive Secretariat, the same provisions applying, at least 10 working days before the farms begin fattening activities on bluefin tuna in the ICCAT Convention area.
5. Fattening farms under the jurisdiction of a Member State that are not entered on the list indicated in paragraph 1 may not conduct fattening activities on bluefin tuna caught in the ICCAT Convention area.

**▼B***Article 5***Catch notification****▼M1**

1. Member States shall send electronically to the Commission, which shall pass the information to the ICCAT Executive Secretariat, the annual nominal catch data (task I as defined by ICCAT) for the species listed in Annex II. No later than 30 June of the following year the Member States shall transmit to the Commission, for scientific purposes, the definite estimates for the entire year or, where this is not possible, preliminary estimates.
2. Not later than 31 July each year, the Member States shall transmit the following data (task II as defined by ICCAT) in electronic form, to the ICCAT Executive Secretariat with electronic access for the Commission:

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- (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.

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- 1a) Member States shall transmit to the ICCAT Executive Secretariat in electronic form, with electronic access for the Commission, for scientific purposes, data on catches and effort as defined by

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ICCAT, in particular estimates of discards of dead porbeagle, shortfin mako and blue sharks.

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

▼ M1*Article 6a***Information on catches of white and blue marlin**

1. Masters of Community vessels shall record each day in their logbook information on the release of white marlin and blue marlin, alive or dead, by sector not exceeding 5° of longitude by 5° of latitude, and shall indicate in their landing statements the number or weight of white marlin and blue marlin landed.

2. By 30 June each year Member States shall transmit in electronic form to the Commission, for scientific purposes, final estimates for the entire previous year, or if these cannot be sent, preliminary estimates, of the data on catches, including releases, and landings of white marlin and blue marlin.

▼ B*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.



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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).

**▼M1***Article 8a***Register of vessels authorised to fish in the Convention area**

1. Before 1 June 2003 each Member State shall send the Commission electronically a list of the vessels of more than 24 metres overall length flying its flag and registered in its territory that it authorises to fish for tunas and tuna-like fish in the ICCAT Convention area by issue of a special fishing licence.

2. The list indicated in paragraph 1 shall give the following information:

- (a) vessel's internal number as defined in Annex I to Regulation (EC) No 2090/98;
- (b) any previous flags;
- (c) any information on removal from other registers;
- (d) name and address of owner(s) and operator(s);
- (e) gear used;
- (f) period authorised for fishing and/or transshipment.

3. The Commission shall send this information to the ICCAT Executive Secretariat before 1 July 2003 so that these vessels can be entered on the ICCAT register of vessels more than 24 metres in overall length authorised to fish in the ICCAT Convention area (hereinafter referred to as the ICCAT register).

4. Any change to be made to the list indicated in paragraph 1 shall be notified to the Commission for transmission to the ICCAT Executive Secretariat, the same procedure applying, at least 10 working days before the vessel begins fishing activity in the Convention area.

5. Community fishing vessels more than 24 metres in overall length that are not entered on the list indicated in paragraph 1 may not fish, retain on board, tranship or land tunas or tuna-like fish within the ICCAT Convention area.

6. Member States shall take the necessary measures to ensure that:

- (a) only vessels flying their flag that are included in the list indicated in paragraph 1 and hold on board a special fishing licence issued by them are authorised, on the terms of the licence, to carry out fishing activities referred to Article 1 in the ICCAT Convention area;
- (b) no special fishing licence is issued to vessels that have carried out illegal, unregulated and unreported fishing in the ICCAT Convention area (IUU fishing), as indicated in Article 19b, unless the new owners provide adequate documentary evidence that the previous owners and operators neither any longer have any legal, beneficial or financial interest in them nor exercise any control over them, or that their vessels neither take part in nor are associated with IUU fishing;
- (c) where possible, their national legislation prohibits owners and operators of vessels flying their flag that are included in the list indicated in paragraph 1 from taking part in or being associated with tuna-fishing activities in the ICCAT Convention area by vessels not on the ICCAT register;
- (d) where possible, their national legislation requires owners of vessels flying their flag that are included in the list indicated in paragraph 1 to be nationals of a Member State.

7. Member States shall take the necessary measures to prohibit fishing, retention on board, transshipment and landing of tunas and

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tuna-like fish caught in the ICCAT Convention area by vessels more than 24 metres in overall length that are not on the ICCAT register.

8. Member States shall without delay pass on to the Commission any information showing that there are strong reasons for suspecting that vessels more than 24 metres in overall length that are not on the ICCAT register are fishing for or transshipping tunas or tuna-like fish in the ICCAT Convention area.

*Article 8b***Chartering of Community fishing vessels**

1. Before 30 April each year Member States shall send the Commission a list of the vessels flying their flag chartered by contracting parties to the ICCAT Convention for the current year, together with any changes made at any time to this list.

2. Lists as indicated in paragraph 1 shall give the following information:

- (a) internal number of vessel as defined in Annex I to Regulation (EC) No 2090/98;
- (b) name and address of vessel owners;
- (c) species covered by the charter and quota allocated by the charter contract;
- (d) length of the charter agreement;
- (e) charterer's name;
- (f) Member State's assent to the charter agreement;
- (g) country where the vessel was chartered.

3. On the date of conclusion of a charter agreement, the flag Member State shall send the following information to the ICCAT Executive Secretariat and inform the Commission of:

- (a) its assent to the charter agreement;
- (b) the action it has taken to ensure that chartered vessels flying its flag comply with ICCAT conservation and management provisions.

4. When the charter agreement ends, the flag Member State shall inform the ICCAT Executive Secretariat of the date of termination and inform the Commission.

5. The flag Member State shall act to ensure that:

- (a) the vessel is not authorised to fish during the charter period against the quota or fishing possibilities allocated to itself;
- (b) it is not authorised to fish under more than one charter agreement during the same period;
- (c) its catches are separately registered from those of other vessels flying its flag;
- (d) it complies with the conservation and management measures adopted by ICCAT.

*Article 8c***Transshipment**

Vessels flying the flag of a Member State that measure more than 24 metres in overall length, fish by longlining and appear on the ICCAT list indicated in Article 8a(1) may not tranship in the ICCAT Convention area except by prior authorisation of the flag Member State's competent authority.

▼B*Article 9***Annual report**

1. Before ►M1 15 August ◀ 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).

▼M1*Article 9a***Annual statement on the application of the ICCAT management standards by large longliners**

Before 1 September each year, Member States with longliners of a length overall of more than 24 metres authorised to fish in the Convention zone shall transmit to the Commission the Annual statement on the application of the ICCAT management standards by large longliners, using the specimen set out as in Annex IV.

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## 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,

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— 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 transshipment.
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.

▼ **M1***Article 19a***Action to combat IUU fishing**

Each Member State shall endeavour in line with its national legislation to ensure that its importers, transporters and other operators refrain from dealing in or transshipping tunas and tuna-like fish caught by vessels carrying out IUU fishing, in particular any fishing conflicting with ICCAT conservation and management measures.

*Article 19b***Information on vessels presumed to have carried out IUU fishing**

1. For the purposes of this Article a vessel flying the flag of a non-contracting party is presumed to have carried out IUU fishing if it is shown by the competent authority of a Member State that it:

- (a) catches tunas or tuna-like fish in the ICCAT Convention area but is not on the ICCAT register;
- (b) catches tunas or tuna-like fish in the ICCAT Convention area for which the flag Member State has no quota, catch limit or effort allocation under the ICCAT conservation and management measures;
- (c) neither registers nor declares its catches in the ICCAT Convention area or makes false statements;
- (d) takes or lands undersized fish in contravention of ICCAT conservation and management measures;
- (e) fishes during close seasons or in closed zones in contravention of ICCAT conservation and management measures;
- (f) uses prohibited fishing gear in contravention of ICCAT conservation and management measures;
- (g) transships with vessels on the list indicated in paragraph 5;
- (h) makes unauthorised catches of tunas or tuna-like fish in waters under the national jurisdiction of ICCAT Convention area coastal countries or contravenes their laws and regulations;
- (i) is stateless and catches tunas or tuna-like fish in the ICCAT Convention area;
- (j) engages in fishing activity conflicting with any other ICCAT conservation and management measure.

2. On the basis of information obtained by their competent authorities, Member States shall before 15 June notify to the Commission a list of the vessels flying the flag of a non-contracting party that are presumed to have been carrying out IUU fishing during the current and previous years. It shall be accompanied by the supporting documentation.

By 15 July the Commission shall forward the information obtained from the Member States to the ICCAT Executive Secretariat.

3. On receiving from the ICCAT Executive Secretariat the draft list of vessels of non-contracting parties presumed to be carrying out IUU fishing that it has drawn up, the Commission shall forward it to the Member States. They shall immediately scrutinise it to ascertain the activities of these vessels and any changes of name, flag or ownership.

4. By 30 September, Member States shall send the Commission any further information likely to be relevant to the establishment of the list indicated in paragraph 5.

5. The Commission shall each year, on receiving from ICCAT the list of vessels identified as carrying out IUU fishing (hereinafter referred to as the 'IUU list'), send it to the Member States.

▼ **M1***Article 19c***Action on vessels presumed to have carried out IUU fishing**

1. Member States shall take the necessary measures, in line with their national legislation and Community law, to ensure that:
  - (a) vessels entered on the IUU list that voluntarily enter a port are not authorised to land or tranship there;
  - (b) their flag is not granted to vessels on the IUU list unless the vessel has changed ownership and a new owner can convincingly show that the previous owner or operator neither has any continuing legal, financial or other real interest in the vessel nor exercises any control over it, or unless, having taken all relevant facts into account, the flag State considers that granting the flag to a vessel will not lead to IUU fishing;
  - (c) importers, transporters and other operators are encouraged not to deal in or tranship tunas and tuna-like fish taken by vessels on the IUU list;
  - (d) all relevant information is obtained and exchanged with other contracting parties and cooperating non-contracting parties, entities and fishing entities for the purpose of detecting and preventing the use of false import/export licences for tunas and tuna-like fish from vessels on the IUU list.
2. The following shall be prohibited:
  - (a) transhipment between fishing vessels, mother vessels or transport vessels flying the flag of a Member State and registered in the Community and vessels on the IUU list;
  - (b) chartering of a vessel on the IUU list;
  - (c) importing, landing or transshipping tunas or tuna-like fish from vessels on the IUU list;

## CHAPTER II

**CONTROL AND SURVEILLANCE MEASURES APPLICABLE IN ZONE  
2**

## SECTION 1

**Control measures***Article 20***General principles**

Member States shall act to ensure that vessels flying their flag respect the provisions applicable in the zone.

*Article 20a***Register of vessels authorised to fish in the IOTC area**

Article 8a shall apply *mutatis mutandis*.

*Article 20b***Transhipment**

Article 8c shall apply *mutatis mutandis*.

*Article 20c***Marking of fishing gear**

1. Gear used by Community vessels authorised to fish in the zone shall be marked as follows: the ends of nets, lines and other gear in the sea shall be fitted with flag or radar reflector buoys and by night with light buoys indicating their position and extent.

**▼M1**

2. Marker buoys and similar floating objects indicating the position of fixed fishing gear shall at all times clearly indicate the letter(s) and/or number(s) of the vessel(s) to which they belong.
3. Fish aggregating devices shall be clearly marked at all times with the letter(s) and/or number(s) of the vessel(s) to which they belong.

*Article 20 d***Statistical notification for scientific purposes**

1. Member States shall transmit the following statistical data in electronic form, with electronic access for the Commission, to the IOTC Secretariat, in accordance with the procedures for submission of statistics referred to in Annex V:
  - (a) fishing effort and catches of species referred to in Article 1 for the previous year;
  - (b) the sizes of the species referred to in Article 1 for the previous year;
  - (c) tuna fishing using floating objects, including fish aggregating devices.
2. Member States shall set up a computerised database containing the statistical data provided for in paragraph 1, with electronic access for the Commission.

## SECTION 2

**Port inspection procedures***Article 20e*

Articles 10, 12, 13, 14 and 15 shall apply *mutatis mutandis*.

## SECTION 3

**Stateless vessels and vessels of non-contracting parties***Article 21***Observation**

1. Masters of Community vessels authorised to fish in the zone shall send their national authorities their observations on non-contracting parties' vessels presumed or known to be fishing for bigeye or yellowfin tuna or skipjack.
2. Member States shall without delay send this information to the Commission, which shall send it to IOTC.

*Article 21a***Control of fishing activities**

Article 18 shall apply *mutatis mutandis*.

*Article 21b***IUU vessels**

Article 19b shall apply *mutatis mutandis*.

*Article 21c***Measures concerning vessels presumed to have carried out IUU fishing**

Article 19c shall apply *mutatis mutandis*.





CHAPTER III  
CONTROL AND SURVEILLANCE MEASURES APPLICABLE IN ZONE  
3

*Article 22*

**General**

Each Member State shall take the action necessary in order that vessels flying its flag respect the IATTC measures transposed into Community law and the International Dolphin Conservation Programme Agreement measures applicable.

CHAPTER IV  
**FINAL PROVISIONS**

*Article 23*

The measures necessary for the implementation of Article 4(2), Article 5(3), Article 6(2), Article 8(6) and Article 9(2) shall be adopted in accordance with the management procedure referred to in Article 24(2).

*Article 24*

1. The Commission shall be assisted by the Committee established by Article 17 of Council Regulation (EEC) No 3760/92.

2. Where reference is made to this paragraph Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

*Article 25*

1. Regulation (EC) No 1351/1999 is hereby repealed.

2. Article 22(1) of Regulation (EC) No 2742/1999 is hereby repealed.

3. References made to the repealed Regulation (EC) No 1351/1999 shall be construed as being made to this Regulation, and should be read in accordance with the correlation table in Annex III.

*Article 26*

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

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



## ANNEX I

## LIST OF SPECIES REFERRED TO IN THIS REGULATION

- Albacore: *Thunnus alalunga*
- Bluefin tuna: *Thunnus thynnus*
- Bigeye tuna: *Thunnus obesus*
- Skipjack: *Katsuwonus pelamis*
- Atlantic bonito: *Sarda sarda*
- Yellowfin tuna: *Thunnus albacares*
- Blackfin tuna: *Thunnus atlanticus*
- Little tuna: *Euthynnus* spp.
- Southern bluefin tuna: *Thunnus maccoyii*
- Frigate tuna: *Auxis* spp.
- Oceanic sea bream: *Bramidae*
- Marlin: *Tetrapturus* spp.; *Makaira* spp.
- Sailfish: *Istiophorus* spp.
- Swordfish: *Xiphias gladius*
- Sauries: *Scomberesox* spp.; *Cololabis* spp
- Dolphinfish; common dolphinfish: *Coryphaena hippurus*; *Coryphaena equiselis*.
- Shark: *Hexanchus griseus*; *Cetorhinus maximus*; *Alopiidae*; *Rhincodon typus*; *Carcharhinidae*; *Sphyrnidae*; *Isuridae*; *Lamnidae*
- Cetaceans (whales and porpoises): *Physeteridae*; *Belaenopteridae*; *Balenidae*; *Eschrichtiidae*; *Monodontidae*; *Ziphiidae*; *Delphinidae*.





## ANNEX II

## LIST OF SPECIES SUBJECT TO COMMUNICATION TO ICCAT

| Latin name                        | English name                  |
|-----------------------------------|-------------------------------|
| <i>Thunnus thynnus</i>            | Bluefin tuna                  |
| <i>Thunnus maccoyii</i>           | Southern bluefin tuna         |
| <i>Thunnus albacares</i>          | Yellowfin tuna                |
| <i>Thunnus alalunga</i>           | Albacore                      |
| <i>Thunnus obesus</i>             | Bigeye tuna                   |
| <i>Thunnus atlanticus</i>         | Blackfin tuna                 |
| <i>Euthynnus alletteratus</i>     | Atlantic black skipjack       |
| <i>Katsuwonus pelamis</i>         | Skipjack                      |
| <i>Sarda sarda</i>                | Atlantic bonito               |
| <i>Auxis thazard</i>              | Frigate tuna                  |
| <i>Orcynopsis unicolor</i>        | Plain bonito                  |
| <i>Acanthocybium solandri</i>     | Wahoo                         |
| <i>Scomberomorus maculatus</i>    | Spotted Spanish mackerel      |
| <i>Scomberomorus cavalla</i>      | King mackerel                 |
| <i>Istiophorus albicans</i>       | Atlantic sailfish             |
| <i>Makaira indica</i>             | Black marlin                  |
| <i>Makaira nigricans</i>          | Atlantic blue marlin          |
| <i>Tetrapturus albidus</i>        | Atlantic white marlin         |
| <i>Xiphias gladius</i>            | Swordfish                     |
| <i>Tetrapturus pfluegeri</i>      | Spearfish                     |
| <i>Scomberomorus tritor</i>       | West African Spanish mackerel |
| <i>Scomberomorus regalis</i>      | Cero                          |
| <i>Auxis rochei</i>               | Bullet tuna                   |
| <i>Scomberomorus brasiliensis</i> | Serra Spanish mackerel        |

**▼B***ANNEX III***CORRELATION TABLE**

| Regulation (EC) No 1351/1999 | This Regulation |
|------------------------------|-----------------|
| Articles 1, 2, 3             | Article 8       |
| Article 4                    | Article 18      |
| Article 5                    | Article 17      |

ANNEX IV

**SPECIMEN FORM FOR**

ANNUAL DECLARATION OF APPLICATION OF ICCAT MANAGEMENT STANDARDS BY LARGE LONGLINERS

**a. Management at fishing grounds**

|        | Boarding of scientific observers | Vessel satellite monitoring system | Daily or periodic reporting of catches | Meldung Einfahrt/Ausfahrt |
|--------|----------------------------------|------------------------------------|--|---------------------------|
| YES/NO |                                  |                                    |  |                           |
| Note:  | %                                | % or number of vessels             | method                                 | method                    |

**b. Management of transshipments (from fishing ground to port of landing)**

|        | Transshipment reports | Port inspection | Statistical document programme |
|--------|-----------------------|-----------------|--------------------------------|
| YES/NO |                       |                 |                                |
| Note:  | Method                | method          |                                |

**c. Management in ports of landing**

|        | Landing inspection | Landing report | Cooperation with other parties |
|--------|--------------------|----------------|--------------------------------|
| YES/NO |                    |                |                                |
| Note:  | Method             | method         |                                |

▼ **M1***ANNEX V***Catch and effort data**

Surface fisheries: catch data in nominal catch weight and effort data in fishing days (purse seine, baitboat, troll, drift nets) should be provided to IOTC by 1° grid area and month strata. Purse seine fishery data should be stratified by type of school. Those data should preferably be extrapolated to the national monthly catches of each gear. The raising factors used, corresponding to the logbook coverage, should be given routinely to IOTC.

Longline fisheries: catch and effort data of the longline fisheries should be provided to the IOTC by 5° grid area and month strata, preferably in numbers and in weight. Fishing effort should be given in numbers of hooks. Those data should preferably be extrapolated to the national monthly catches. The raising factors used, corresponding to the logbook coverage, should be given routinely to IOTC.

The catches, efforts and sizes of the artisanal, small scale and sport fisheries should also be submitted on a monthly basis, but using the best geographical areas used to collect and process those data.

**Size data**

Considering that size data are of key importance for most tuna stock assessment, length data, including the total number of fish measured, should be routinely submitted to the IOTC on a 5° grid area and month basis, by gear and fishing mode (e.g. free/log schools for the purse seiners). Size data should be provided for all gears and for all species covered by IOTC. Size data sampling should preferably be run under strict and well described random sampling schemes which are necessary to provide unbiased figures for the sizes taken. The exact recommended level of sampling could vary between species (as a function of various parameters), but the specific level of recommended sampling needs to be established by the working party on statistics. More detailed size data, for instance size by individual samples, should also be made available to IOTC when requested by specific working groups, but under strict rules of confidentiality.

**Fishing for tunas using floating objects, including fish aggregating devices (FADs)**

For a better understanding by IOTC of changing patterns in effective fishing effort by fleets operating in its area of competence, more information has to be obtained. Since the activities of supply vessels and the use of fish aggregating devices (FAD) are an integral part of the fishing effort of the purse seine fleet, the following information should be routinely submitted to IOTC:

Number and characteristics of supply vessels: (i) operating under their flag, (ii) assisting purse seine vessels operating under their flag, or (iii) licensed to operate in their exclusive economic zones, and that have been present in the IOTC area of competence.

Levels of activity of supply vessels: including number of days at sea, on 1° grid area and month basis.

In addition, contracting parties and cooperating non-contracting parties shall do their best to provide data on the total number and type of fish aggregating devices (FADs) operated by the fleet, on a 5° grid area and month basis.

**Timeliness of data submission to IOTC**

It is essential that all fishery data be available to the IOTC Secretariat in due time to allow monitoring of stocks and analysis of the data. Thus it is recommended that the following rules be applied as standard obligations:

Surface fleets and other fleets operating in coastal zones (including supply vessels) must provide their fishery data at the earliest possible date but no later than 30 June each year (previous year's data).

Longline fleets operating on the high seas must provide the provisional fishery data at the earliest date, but no later than 30 June (previous year's data). They must provide the final estimate of their fishery data before 30 December each year (previous year's data).

The time limits presently allowed for submitting statistics could be reduced in the future as communication and data processing technologies become ever more rapid, which should reduce the present data processing delays.