

Council Regulation(EC) No 41/2007 of 21 December 2006 fixing for 2007 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 catch limitations are required

[^{F1}CHAPTER Xa

SPECIAL MEASURES FOR BLUEFIN TUNA IN THE EASTERN ATLANTIC AND MEDITERRANEAN

SECTION 1

Management measures

Article 80a

Scope

This Chapter lays down the general rules for the application by the Community of special measures for Bluefin Tuna (*thunnus thynnus*) recommended by the International Commission for the Conservation of the Atlantic Tunas (ICCAT). It shall apply to bluefin tuna in the Eastern Atlantic and the Mediterranean.

Article 80b

Definitions

For the purpose of this Chapter, the following definitions shall apply:

- (a) ‘CPCs’ means Contracting Parties to the International Convention for the Conservation of the Atlantic Tuna and cooperating non-contracting parties, entities or fishing entities;
- (b) ‘Fishing vessel’ means any vessel used or intended for use for the purposes of the commercial exploitation of tuna resources, included fish processing vessels and vessels engaged in transshipment;
- (c) ‘Joint fishing operation’ means any operations between two or more vessels flying the flag of different CPCs or of different Member States where the catch of one vessel is attributed in total or in part to one or more other vessels;
- (d) ‘Transfer activities’ means any transfer of bluefin tuna
 - (i) from the fishing vessel to the end fattening bluefin tuna farm, including for the fish dead or escaped during the transport;
 - (ii) from a bluefin tuna farm or a tuna trap to a processing vessel, transport vessel or to land;

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- (e) ‘Tuna trap’ means fixed gear anchored to the bottom usually containing a guide net that leads fish into an enclosure;
- (f) ‘Caging’ means that bluefin tuna is not taken on board and includes both, fattening and farming;
- (g) ‘Fattening’ means caging of bluefin tuna for a short period (usually two to six months) aiming mostly at increasing the fat content of the fish;
- (h) ‘Farming’ means caging of bluefin tuna for a period longer than one year, aiming to increase the total biomass;
- (i) ‘Transhipment’ means the unloading of all or any of the bluefin tuna on board a fishing vessel to another fishing vessel at port;
- (j) ‘Processing vessel’ means a vessel on board of which fisheries products are subject to one or more of the following operations, prior to their packaging: filleting or slicing, freezing and/or transformation;
- (k) ‘Sport fishery’ means a non-commercial fishery whose participants adhere to a national sport organisation or are issued with a national sport licence;
- (l) ‘Recreational fishery’ means a non-commercial fishery whose participants do not adhere to a national sport organisation or are not issued with a national sport licence;
- (m) ‘Task II’ means Task II as defined by the International Commission for the Conservation of the Atlantic Tunas (ICCAT) in the ‘Field manual for statistics and sampling Atlantic tunas and tuna-like fish’ (Third edition, ICCAT, 1990).

Article 80c

Quota

1 Each Member State may allocate its bluefin tuna quota to its fishing vessels and traps authorised to fish actively for bluefin tuna.

2 Private trade arrangements between nationals of a Member State and a CPC in order to use a fishing vessel flying the flag of that Member State for fishing in the framework of a tuna quota of a CPC, shall be concluded only under authorisation by the Member State concerned which shall inform the Commission.

Article 80d

Joint fishing operations

1 Any joint fishing operations for bluefin tuna involving vessels flying the flag of one or more Member State(s) shall only be authorised with the consent of the flag Member State or flag Member States concerned

2 At the moment of the application for the authorisation, each Member State shall take the necessary measures to obtain from its fishing vessel participating in the joint fishing operation detailed information concerning the duration of the joint operation, the identity of the operators involved and the allocation key between the vessels for the catches involved.

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3 Each Member State shall transmit the information referred to in paragraph 2 to the Commission. The Commission shall promptly forward that information to the ICCAT Secretariat.

SECTION 2

Technical measures

Article 80e

Closed fishing season

By way of derogation from the provision laid down in Article 6 of Regulation (EC) No 520/2007⁽¹⁾:

- (a) Bluefin tuna fishing shall be prohibited in the east Atlantic and Mediterranean by large-scale pelagic longline vessels over 24 m during the period from 1 June to 31 December 2007, with the exception of the area delimited by west of 10° W and north of 42° N;
- (b) Purse seine fishing for bluefin tuna shall be prohibited in the east Atlantic and Mediterranean during the period from 1 July to 31 December 2007;
- (c) Bluefin tuna fishing by bait boats shall be prohibited in the east Atlantic and Mediterranean during the period from 15 November 2007 to 15 May 2008;
- (d) Bluefin tuna fishing by pelagic trawlers shall be prohibited in the east Atlantic during the period from 15 November 2007 to 15 May 2008.

Article 80f

Use of planes

By way of derogation from the provision laid down in Article 6 of Regulation (EC) No 520/2007 the use of airplanes or helicopters for searching for bluefin tuna in the Convention Area shall be prohibited.

Article 80g

Minimum size

1 By way of derogation from Article 8 and Annex IV of Regulation (EC) No 520/2007, the minimum size for bluefin tuna in the east Atlantic and in the Mediterranean Sea shall be 30 kg or 115 cm with effect at the latest from 30 June 2007.

2 By derogation to paragraph 1 and without prejudice to Article 80i, a minimum size for bluefin tuna (*Thunnus thynnus*) of 8 kg or 75 cm shall apply for the following bluefin tunas, with effect at the latest from 30 June 2007:

- a bluefin tuna caught in the eastern Atlantic by bait boats, trolling boats and pelagic trawlers;
- b bluefin tuna caught in the Adriatic Sea for farming purposes.

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3 The additional specific conditions for bluefin tuna caught in the eastern Atlantic by bait boats, trolling boats and pelagic trawlers are set out in Part I of Annex XVIa.

Article 80h

Sampling plan for bluefin tuna

1 By way of derogation from the provisions laid down in Article 11 of Regulation (EC) No 520/2007, each Member State shall establish a sampling programme for the estimation of the numbers-at-size of the bluefin tuna captured.

2 Sampling by size in cages shall be carried out on a sample of 100 specimens per 100 tonnes of live fish or on a sample of 10 % of the total number of fish placed in a cage. The size sample, on basis of length or weight, shall be taken during harvesting at the farm, and on the dead fish during transport in accordance with the method adopted by the ICCAT for notifying data in the framework of Task II.

3 Additional methods and samplings shall be developed for fish reared for more than one year.

4 Sampling shall be carried out during a harvest taken at random and shall cover all cages. The data shall be notified to the ICCAT by 31 May 2008 for sampling carried out the previous year in 2007.

Article 80i

By-catch

1 A by-catch of maximum 8 % of bluefin tuna weighing less than 30 kg and no less than 10 kg shall be authorised for all fishing vessels, fishing actively or not for bluefin tuna.

2 The percentage mentioned in paragraph 1 shall be calculated either on the basis of the total by-catch in number of fish per landing of the total bluefin tuna catches of these vessels, or on basis of its weight equivalence in percentage.

3 By-catch must be deducted from the quota of the flag Member State. The discard of dead fish from the by-catch shall be prohibited and shall be deducted from the quota of the flag Member State.

4 Articles 80n and 80p(3) shall apply to landings of by-catch of bluefin tuna.

Article 80j

Recreational fisheries

1 In the framework of recreational fisheries it shall be prohibited to catch, retain on board, tranship and land more than one individual of bluefin tuna in each sea trip.

2 The marketing of bluefin tuna caught in recreational fishing shall be prohibited except for charitable purposes.

3 Each Member State shall record catch data from recreational fishing and transmit this data to the Commission. The Commission shall forward that information to the Standing Committee on Research and Statistics of ICCAT.

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4 Each Member State shall take the necessary measures to ensure, to the greatest extent possible, the release of bluefin tuna caught alive, especially juveniles, in the framework of recreational fishing.

Article 80k

Sport fisheries

1 Each Member State shall take the necessary measures to regulate sport fishing, notably by fishing authorisations.

2 The marketing of bluefin tuna caught in sport fishing competitions shall be prohibited except for charitable purposes.

3 Each Member State shall record catch data from sport fishing and transmit this data to the Commission. The Commission shall forward that information to the Standing Committee on Research and Statistics of ICCAT.

4 Each Member State shall take the necessary measures to ensure, to the greatest extent possible, the release of the bluefin tuna caught alive, especially juveniles, in the framework of sport fishing.

SECTION 3

Control measures

Article 80l

Register of vessels authorised to fish actively for bluefin tuna

1 By 14 June 2007, each Member State shall send the Commission electronically a list of all fishing vessels flying its flag authorised to fish actively for bluefin tuna in the eastern Atlantic and Mediterranean Sea by issue of a special fishing permit.

2 The Commission shall send this information to the ICCAT Executive Secretariat before 15 June 2007 so that those vessels can be entered on the ICCAT record of vessels authorised to fish for bluefin tuna.

3 Those Community fishing vessels concerned by this Article and not entered into the ICCAT record may not fish for, retain on board, tranship, transport, transfer or land bluefin tuna in the eastern Atlantic and Mediterranean Sea.

4 Article 8a(2), (4), (6), (7) and (8) of Regulation (EC) No 1936/2001 shall apply mutatis mutandis.

Article 80m

Register of tuna traps authorised to fish for bluefin tuna

1 By 14 June 2007, each Member State shall send the Commission electronically a list of its authorised tuna traps authorised to fish for bluefin tuna in the eastern Atlantic and

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Mediterranean Sea by issue of a special fishing licence. The list shall include the name of the traps and the register number.

2 The Commission shall send the list to the ICCAT Executive Secretariat before 15 June 2007 so that these tuna traps can be entered on the ICCAT record of tuna traps authorised to fish for bluefin tuna.

3 Community tuna traps not entered into the ICCAT record may not fish for, retain, tranship or land bluefin tuna in the eastern Atlantic and Mediterranean Sea.

4 Article 8a(2), (4), (6), (7) and (8) of Regulation (EC) No 1936/2001 shall apply *mutatis mutandis*.

Article 80n

Designated ports

1 It shall be prohibited to land and or tranship from vessels referred to in Article 80l any quantity of bluefin tuna fished in east Atlantic and Mediterranean Sea at any place other than ports designated by CPCs and by Member States.

2 Member States shall designate a place to be used for landing or a place close to the shore (designated ports) where landing or transhipment operations of bluefin tuna are permitted.

3 Member States shall transmit to the Commission no later than 14 June 2007 a list of designated ports. The Commission shall send this information to the ICCAT Executive Secretariat before 15 June 2007. Any subsequent changes to the list shall be notified to the Commission for transmission to the ICCAT Executive Secretariat, at least 15 days before the change shall come into force.

Article 80o

Transhipment

1 By way of derogation from Article 11 of Regulation (EEC) No 2847/93 transhipment at sea of bluefin tuna in the east Atlantic and Mediterranean Sea shall be prohibited, except for large-scale tuna longline fishing vessels operating in accordance with ICCAT Recommendation 2005(06) establishing a programme for transhipment for large-scale tuna longline fishing vessels, as amended.

2 Prior to entry into any port, the master of the receiving vessel (catching vessel or processing vessel) or his representative, shall provide the competent authorities of the Member State whose port he wants to use at least 48 hours before the estimated time of arrival with the following:

- a estimated time of arrival;
- b estimated quantity of bluefin tuna retained on board;
- c information on the geographical areas where the catches of bluefin tuna to be transhipped were taken;
- d the name of the catching vessel which delivers the bluefin tuna and its number in the ICCAT record of authorised fishing vessels for bluefin tuna;
- e the name of the receiving vessel, its number in the ICCAT record of authorised fishing vessels for bluefin tuna;
- f the tonnage of bluefin tuna to be transhipped.

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3 Catching fishing vessels shall not be allowed to tranship, unless they have obtained prior authorisation from their flag State.

4 The master of the catching vessel shall, before the transshipment starts, inform its flag State of the following:

- a the quantities of bluefin tuna to be transhipped;
- b the date and port of the transshipment;
- c the name, registration number and flag of the receiving vessel and its number in the ICCAT record of authorised fishing vessels for bluefin tuna;
- d the geographical area of the tuna catches.

5 The competent authority of the Member State in which port the transshipment takes place shall inspect the receiving vessel on arrival and check the cargo and documentation related to the transshipment operation.

6 The competent authority of the Member State of which port the transshipment takes place shall send a record of the transshipment to the flag State authority of the catching vessel, within 48 hours after the transshipment has ended.

7 The masters of a Community vessel referred to in Article 80l shall complete and transmit the ICCAT transshipment declaration to the competent authorities of the Member State whose flag the vessels are flying. The declaration shall be transmitted no later than 15 days after the date of transshipment in port in accordance with the format set out in Part III of Annex XVIa.

Article 80p

Recording requirements

1 In addition to complying with Articles 6 and 8 of Regulation (EEC) No 2847/93, the master of a Community fishing vessels referred to in Article 80l shall enter in the logbook, if applicable, the information listed in Part II of Annex XVIa.

2 The master of a Community vessel referred to in Article 80l engaged in a joint fishing operation shall record the additional information in their logbook:

- a where the catch is taken on board or transferred into cages:
 - the date and the time of the catch taken in a joint fishing operation,
 - the location (longitude/latitude) of the catch taken in a joint fishing operation,
 - amount of catches of bluefin tuna taken on board, or transferred into cages,
 - the name and international radio call sign of the fishing vessel;
- b for those vessels, engaged in a joint fishing operation but not involved in the transfer of fish:
 - the date and the time of the joint fishing operation,
 - the location (longitude/latitude) of the joint fishing operation,
 - state that no catches have been taken on board or have been transferred into cages by that vessel,
 - the name and international radio call sign(s) of the catching fishing vessel(s).

3 Where a catching vessel engaged in a joint fishing operation declares the quantity of bluefin tuna captured by its fishing gear, the master shall indicate, for each catch, for which vessel(s) and flag State(s) against whose quota the catches shall be counted.

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4 By way of derogation from the provision of Article 7 of Regulation (EEC) No 2847/93, the master of a Community vessel referred to in Article 80l of this Regulation or his representative shall notify the competent authority of the Member State (including the flag Member State) or the CPC whose ports or landing facility they wish to use at least four hours before the estimated time of arrival at the port, of the following:

- a estimated time of arrival;
- b estimate of quantity of bluefin tuna retain on board;
- c information on the zone where the catches were taken.

5 In the case of landing in a designated port of a Member State other than the flag Member State, the relevant authority of that Member State shall send a record of the landing to the flag authority of the vessel, within 48 hours after the landing has ended.

Article 80q

Control in port or in farm

1 Member States shall take the necessary measures to ensure that all vessels referred to in ICCAT Record of vessel authorised to fish for bluefin tuna entering a designated port to land and/or tranship bluefin tuna caught in the eastern Atlantic and Mediterranean Sea are submitted to a control in port.

2 Member States shall take the necessary measures to control each caging operation in the fattening or farming farms falling under their jurisdiction.

3 When the fattening or farming farms are located in the High Seas, the provisions of paragraph 2 shall apply, *mutatis mutandis*, to Member States where the natural or legal persons responsible for the fattening or farming farm are established.

Article 80r

Catch reports

1 The master of a catching fishing vessel referred to in Article 80l shall send to the competent authorities of his flag Member State a catch report stating the quantities of bluefin tuna caught by his vessel, including zero catch returns.

2 The report shall for the first time be transmitted at the latest at the end of the 10 days after the entry into Eastern Atlantic and Mediterranean Sea or after the beginning of the fishing trip. In the case of joint fishing operations the master of the catching vessel shall indicate, for each catch, for which vessel or vessels the catches shall be counted against the quota of the Flag State(s).

3 From the date of entry into force of this Regulation, the master of a fishing vessel shall transmit the report on the quantity of bluefin tuna, including zero catch returns on a five days basis.

4 Each Member State shall, upon receipt, forward catch reports by electronic means or other means to the Commission. The Commission shall promptly forward that information to the ICCAT Secretariat.

5 Member States shall inform the Commission, by computer-readable form, before the fifteenth day of each month, of the quantities of bluefin tuna caught in the Eastern Atlantic and

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Mediterranean Sea which have been landed, transhipped, trapped or caged by the vessel flying their flag during the preceding month.

Article 80s

Cross-check

1 Member States shall verify, including by using VMS (vessel monitoring system) data, the submission of logbooks and relevant information recorded in the logbooks of their vessels, in the transfer/transshipment document and in the catch documents.

2 The Member States shall carry out administrative cross-checks on all landings, all transshipment or caging between the quantities by species recorded in the vessels logbook or quantities by species recorded in the transshipment declaration and the quantities recorded in the landing declaration or caging declaration, and any other relevant document, such as invoice and/or sales notes.

Article 80t

Caging operations

1 The Member State under whose jurisdiction the fattening or farming farm for bluefin tuna is located shall submit within one week of the completion of the caging operation a caging report, validated by an observer, to the Member State or CPC whose flag vessels have fished the tuna and to the Commission. The Commission shall promptly forward that information to the ICCAT Secretariat. This report shall contain the information included in the caging declaration as referred to in Article 4 b of Regulation (EC) No 1936/2001.

2 When the fattening or farming farms are located in the High Seas, paragraph 1 shall apply, *mutatis mutandis*, to Member States where the natural or legal persons responsible for fattening or farming farms are established.

3 Before any transfer activity, the flag Member State or the flag CPC of the catching vessel shall be informed by the competent authority of the fattening or farming farm Member State of the transfer into cage of quantities caught by fishing vessels flying its flag.

The flag Member State of the catching vessel shall request the competent authority of the fattening or farming farm Member State to proceed to the seizure of the catches and the release of the fish into the sea if it considers on receipt of that information that:

- a the fishing vessel declared to have caught the fish had not sufficient individual quota for bluefin tuna put into the cage or,
- b the quantity of fish has not been duly reported and not taken into account for the calculation of any quota that may be applicable or,
- c the fishing vessel declared to have caught the fish is not authorised to fish for bluefin tuna.

4 The master of a Community fishing vessel shall complete and transmit to the flag Member State or to the flag CPC the ICCAT transfer declaration not later than 15 days after the date of transfer to tug vessels or to the cage, in accordance with the format set out in Part III of Annex XVIa. The transfer declaration shall accompany the transferred fish during transport to the cage.

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Article 80u

Trap activities

1 Catches by trap shall be recorded after the end of every fishing operation in tuna traps and shall be transmitted in a catch record by electronic means or other means within 48 hours after the end of every fishing operation to the competent authority of the Member State where the trap is located.

2 Each Member State shall, upon receipt, forward the catch record by electronic means to the Commission. The Commission shall promptly forward the information to the ICCAT Secretariat.

Article 80v

Observer programme

1 Each Member State shall ensure observer coverage on its fishing vessels over 15m in length for at least:

- a 20 % of its active purse seine vessels. In the case of joint fishing operations, an observer shall be present during the fishing operation;
- b 20 % of its active pelagic trawlers;
- c 20 % of its active longline vessels;
- d 20 % of its active bait boats;
- e 100 % during the harvesting process for tuna traps.

The observer tasks shall be, in particular, to:

- a monitor a vessel compliance with the present Chapter;
- b record and report upon the fishing activity;
- c observe and estimate catches and verify entries made in the logbook;
- d sight and record vessels which may be fishing contrary to ICCAT conservation measures.

In addition, the observer shall carry out scientific work, such as collecting Task II data as defined by ICCAT, when required by ICCAT, based on the instructions from the Standing Committee on Research and Statistics of ICCAT.

2 Each Member State under whose jurisdiction the fattening or farming farm for bluefin tuna is located shall ensure an observer presence during all transfer of bluefin tuna to the cages and all harvest of fish from the farm.

The observer tasks shall be, in particular, to:

- a observe and monitor farming operation compliance in accordance with Article 4a, 4b and 4c of Regulation (EC) No 1936/2001;
- b validate the caging report referred to in Article 80t;
- c carry out such scientific work, for example collecting samples, as required by the International Commission for the Conservation of the Atlantic Tunas based on the instructions from the Standing Committee on Research and Statistics of ICCAT.

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Article 80w

Financing

The special measures for bluefin tuna in the eastern Atlantic and Mediterranean, for the sole purpose of their financing, shall be deemed to be a recovery plan within the meaning of Article 5 of Regulation (EC) No 2371/2002 and shall be eligible under Article 21(a) (i) of Regulation (EC) No 1198/2006 of 27 July 2006 of the European Fisheries Fund⁽²⁾.

Article 80x

Market measures

1 Community trade, landing, imports, exports, placing in cages for fattening or farming, re-exports and transshipments of eastern Atlantic and Mediterranean bluefin tuna species that are not accompanied by accurate, complete, and validated documentation required by this Chapter shall be prohibited.

2 Community trade, imports, landings, placing in cages for fattening or farming, fattening, processing, exports, re-exports and the transshipment of eastern Atlantic and Mediterranean bluefin tuna (*thunnus thynnus*) caught by fishing vessels whose flag State either does not have a quota, catch limit or allocation of fishing effort for eastern Atlantic and Mediterranean bluefin tuna, under the terms of ICCAT management and conservation measures, or when the flag State fishing possibilities are exhausted, shall be prohibited.

3 Community trade, imports, landings, processing, exports from fattening or farming farms that do not comply with ICCAT Recommendation 2006[07] on bluefin Tuna Farming shall be prohibited.

Article 80y

Conversion factors

The conversion factors adopted by the Standing Committee on Research and Statistics of ICCAT shall apply to calculate the equivalent round weight of the processed bluefin tuna.

Article 80z

ICCAT Scheme of Joint International Inspection

1 The ICCAT Scheme of Joint International Inspection adopted by ICCAT at its Fourth Regular Meeting (Madrid, November 1975) shall apply in the Community. The text of the scheme is reproduced in Part IV of Annex XVIa.

2 Member States whose fishing vessels are authorised to fish bluefin tuna in the eastern Atlantic and Mediterranean Sea shall assign inspectors to carry out inspections at sea.

3 The Commission or a body designated by it may assign Community inspectors to the Scheme.

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4 The Commission or a body designated by it shall coordinate the surveillance and inspection activities for the Community. It may draw up, in concert with the Member States concerned, joint inspection programmes for that purpose which will enable the Community to fulfil its obligation under the Scheme. The Member States whose vessels are engaged in fishery on bluefin tuna shall adopt the necessary measures to facilitate the implementation of these programmes particularly as regards the human and material resources required and the periods and zones when these are to be deployed.

5 Member States shall inform the Commission by 14 June 2007 of the names of the inspectors and the inspection vessels they are intending to assign to the Scheme during the following year. Using this information the Commission shall draw up, in collaboration with the Member States, a forward plan for Community participation in the Scheme in 2007, which it shall send to the ICCAT Secretariat and the Member States.]

Textual Amendments

- F1** Inserted by [Council Regulation \(EC\) No 643/2007 of 11 June 2007 amending Regulation \(EC\) No 41/2007 as concerns the recovery plan for bluefin tuna recommended by the International Commission for the Conservation of Atlantic Tunas.](#)

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- (1) [^{F1}OJ L 123, 12.5.2007, p. 3.]
- (2) [^{F1}OJ L 223, 15.8.2006, p. 1.]

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Changes and effects yet to be applied to :

- [Regulation revoked by 2023 c. 28 Sch. 1 Pt. 2](#)